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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Third periodic reports of States parties due in 1998

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND DEPENDENT TERRITORIES*

[1 April 1998]

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* The initial report submitted by the Government of the United Kingdom is contained in document CAT/C/9/Add.6 and 10; for its consideration by the Committee, see documents CAT/C/SR.91, 92, 132, 133 and 133/Add.2 and the Official Records of the General Assembly, Forty-seventh Session, Supplement No. 44 (A/47/44), paras. 93-125, and Forty-eighth Session, Supplement No. 44 (A/48/44), paras. 261-283. For the second periodic report, see CAT/C/25/Add.6; for its consideration, see CAT/C/SR.234 and 235 and Official Records of the General Assembly, Fifty-first Session, Supplement No. 44 (A/51/44), paras. 58-65.

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PART ONE

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (METROPOLITAN TERRITORY)

I. GENERAL INFORMATION

1. This is the third report by the United Kingdom under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United Kingdom's initial report under the Convention was submitted in March 1991 (CAT/C/9/Add.6), and officials from the United Kingdom Government were examined on that report by the United Nations Committee against Torture in November 1991 (CAT/C/SR.91-92 and CAT/C/SR.88-103/Corrigendum). The United Kingdom's second report was submitted in February 1995 (CAT/C/25/Add.6), and officials from the Government were examined on that report in November 1995 (CAT/C/SR.234-235).

2. The United Kingdom is also party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which entered into force in the United Kingdom on 1 February 1989. A delegation from the Committee established under that Convention visited England and the Isle of Man in September 1997. The Committee's report on that visit has not yet been received.

3. Under section 134 of the Criminal Justice Act 1988, torture is already an offence in the United Kingdom. The Government has now introduced a bill to give further effect in United Kingdom law to the substantive rights and freedoms contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms. This includes article 3 of the Convention, which provides that no-one shall be subjected to torture or inhuman or degrading treatment or punishment, and will further strengthen the remedies open to individuals who consider that their rights in this respect have been violated. More information on this is set out in paragraphs 15 and 23 below.

4. The United Kingdom already recognizes the competence of the Committee to receive communications from other State parties alleging breach of obligations accepted under this Convention, under article 21 of the Convention. The Government is currently conducting a wide-ranging review of its position under various human rights instruments, including the optional rights of individual communication conferred by article 22 of this Convention and under other United Nations instruments. It expects to conclude this review later in 1998.

5. As noted in previous reports, the United Kingdom is a unitary State and comprises England and Wales, Scotland and Northern Ireland; references in this report to "Great Britain" refer to England, Wales and Scotland taken together. England and Wales, Scotland and Northern Ireland have separate legal systems, but similar principles apply throughout the United Kingdom.

6. The United Kingdom Government is to devolve powers to a Scottish Parliament and Executive and to a Welsh Assembly. The Scottish Parliament will be able to pass acts dealing with issues not specifically reserved, such as health, education and criminal and civil law; but, broadly speaking, matters such as foreign affairs and international agreements will be reserved.

The Welsh Assembly will have more limited powers, in that it will be able to pass subordinate legislation but not acts. The Assembly will, however, take over most of the executive responsibilities of the Secretary of State for Wales. The first elections for the devolved Parliament of Scotland and the National Assembly of Wales are expected to take place in May 1999.

7. Although certain powers will be devolved, the United Kingdom Parliament will remain sovereign. The Scottish Executive and Welsh Assembly will be required to implement international obligations, and will be responsible for doing so in those areas devolved to them. The United Kingdom Government will, however, retain overall responsibility for international agreements.

8. The periodic reports of the Crown dependencies of the United Kingdom (Guernsey, Jersey and the Isle of Man) are being submitted as Part Two of this report. The periodic reports of the Dependent Territories will be submitted separately.

II. INFORMATION RELATING TO ARTICLES 2 TO 16 OF THE CONVENTION

Introduction

9. This part of the report provides information on developments since the United Kingdom's second periodic report of February 1995 and the oral examination on that report in November 1995. It also provides additional information requested by the Committee during that examination, and sets out what steps the United Kingdom has taken in the light of the Committee's observations.

Recommendations following the last oral hearing

10. The Government has given careful consideration to the observations and recommendations made by the Committee following the last oral hearing. The Committee made nine specific recommendations relating to the Metropolitan Territory of the United Kingdom. The following steps have now been taken in the light of these recommendations and other developments:

(a) The Government has announced its intention to replace the present counter-terrorism legislation with permanent counter-terrorism legislation to cover the whole of the United Kingdom. A discussion paper setting out options for new legislation will be published later this year (para. 47);

(b) In the meantime, a bill to extend the life of the Northern Ireland (Emergency Provisions) Act 1996 has been introduced and is halfway through its passage through Parliament. The bill repeals provisions authorizing the detention of suspected terrorists without trial, known as internment, which are currently on the statute book in lapsed form. However, although the Government would like to close the holding centres in Northern Ireland, it has concluded with regret that it is unable to do so at present (paras. 48-49);

(c) Statutory protection against the return of individuals to places where they might face torture will be strengthened through the Special Immigration Appeals Commission Act 1997 and through the passing of the Human Rights Bill (paras. 17, 25, 28);

(d) Programmes to develop community awareness now form part of initial recruitment training of police officers in Northern Ireland and are to be extended throughout the Royal Ulster Constabulary (para. 38);

(e) Since 1994, more than 160 Immigration Service staff have received training in the management of violent individuals (para. 44);

(f) The bill recently introduced to extend the life of the existing Northern Ireland (Emergency Provisions) Act 1996 provides for the audio-recording of interviews with terrorist suspects in Northern Ireland. Silent video-recording of such interviews is to be introduced early in 1998 (para. 52);

(g) The United Kingdom's position on acceptance of the right of individual communication under Article 22 of the Convention, together with similar rights provided under other United Nations instruments, is under review (para. 4);

(h) Work has continued to increase the number of places available in the prison estate to reduce and ultimately eliminate overcrowding, and to refurbish and modernize existing establishments. The practice of holding prisoners in police cells has ceased (paras. 73-75); and

(i) The Government proposes to develop statutory measures to regulate the private security industry in England and Wales, and has consulted the industry over the best way forward (para. 69).

11. Further details of these measures and other relevant legislative or administrative developments are set out in detail in the following sections of the report. In this, as in previous reports, the Government has sought to provide information as fully as possible, but the inclusion of particular points does not necessarily imply that the United Kingdom considers them to fall within the scope of particular articles of the Convention.

Role of non-governmental organizations

12. The Government recognizes that many non-governmental organizations and other independent bodies, such as the Standing Advisory Commission on Human Rights in Northern Ireland, have a significant part to play in developing ways of preventing torture and other forms of ill-treatment. In preparing this report, therefore, the Government has sought the views of organizations with a close interest in this field on the United Kingdom's compliance with this Convention. The Government is very grateful for the contributions made by these organizations to the report's preparation and has tried to ensure that issues of concern are addressed as far as possible within this report. However, it also wishes to make clear that information in this report is provided solely on the part of the Government, and recognizes that organizations may themselves wish to make individual submissions to the Committee.

Publication and distribution of the report

13. Copies of this report have been made available to the United Kingdom Parliament, have been placed in the legal deposit libraries in the United Kingdom and sent to all organizations with a known interest in this area. The report is being made available on the Internet. Copies may also be obtained from the Home Office Human Rights Unit, Home Office, 50 Queen Anne's Gate, London SW1H 9AT (tel. 0171 273 2166).

Articles 2 and 4

14. Previous reports have summarized the various provisions in United Kingdom law which hold conduct constituting torture to be a serious criminal offence. These provisions remain unchanged. Since implementation of the Criminal Justice Act 1988, no application has been made for a prosecution under section 134 of the Act in respect of offences committed in the United Kingdom.

15. The Government will shortly be issuing a consultation paper on a bill to reform the Offences Against the Person Act 1861, and some other legislation including the Criminal Justice Act 1988. This is a law reform measure, intended to consolidate most of the offences of violence against the person into one piece of legislation. The offence of torture will be included in the new Offences Against the Person Bill, but will remain the same in substance.

16. Paragraph 16 of the initial report also explained that the United Kingdom was bound by Article 7 of the International Covenant on Civil and Political Rights, and by article 3 of the European Convention on Human Rights. Any individual within the jurisdiction of the United Kingdom may exercise the right of individual petition to the European Commission of Human Rights; and several applications concerning article 3 of the European Convention on Human Rights are currently under consideration by the Strasbourg institutions.

17. As noted in paragraph 3 above, the Government has now also introduced legislation to give further effect in our domestic law to the European Convention on Human Rights. A copy of the bill currently before Parliament is submitted to the Committee as annex A. The Human Rights Bill, if enacted, will require all legislation to be read and given effect, as far as possible, in a way which is compatible with the Convention rights, including the prohibition of torture or other forms of inhuman or degrading treatment under article 3 of the Convention. Other than in limited circumstances, public authorities will also be required to act in a way which is compatible with the Convention rights. On finding that a public authority has acted unlawfully, a court or tribunal will be able to provide any remedy available to it and which it considers just and appropriate.

Article 3

Extradition procedures

18. Paragraphs 10-14 of the second report outlined the legal and procedural safeguards which would prevent extradition of an individual to another State

where there were substantial grounds for believing that he or she might face torture. These remain in place. The Human Rights Bill, if enacted, will provide further protection under United Kingdom law in this respect. The United Kingdom Government is not aware of any cases in which the possibility of torture has been grounds for successful challenge or refusal of a request for extradition.

Asylum procedures

19. The United Kingdom continues to assess applications against the criteria set out in the 1951 United Nations Convention Relating to the Status of Refugees. The number of asylum applications received in the United Kingdom rose to 43,965 in 1995, fell to 29,640 in 1996 and rose to 32,500 in 1997. Of decisions taken on asylum applications in 1997, 11 per cent were to recognize as a refugee and grant asylum, 9 per cent were to refuse asylum but grant exceptional leave to remain and 80 per cent were to refuse outright.

20. The Asylum and Immigration Act 1996 replaced the "without foundation" provisions of the Asylum and Immigration Appeals Act 1993 with a new procedure, under which applications certified against an expanded set of criteria attract an accelerated right of appeal. A copy of the Act is at annex B. Certification under the act only occurs after full consideration of a claim and after a decision has been taken to refuse asylum. All failed asylum seekers also have a right of appeal before an independent adjudicator before removal to a country in which they claim to fear persecution. Anyone who can show to a reasonable degree of likelihood that they have been tortured in the past will be exempt from the accelerated appeals provisions. Where someone who does not qualify for recognition as a refugee can nevertheless show a real risk of torture, inhuman or degrading treatment or punishment if they were removed from the United Kingdom, they will be granted exceptional leave to remain.

21. In asylum cases involving allegations of torture, caseworkers are guided by the defirition of torture set out in article 1 of the Convention against Torture. Asylum caseworkers have clear instructions that cases should not be subject to the accelerated appeals procedure where the available evidence establishes a reasonable likelihood that the applicant has been tortured, whether for a 1951 Convention reason or not, in the country of nationality. Where allegations of torture have been made, but the evidence submitted is refuted, the reasons for this should be explained in the letter of refusal sent to the applicant.

22. In considering cases, officials are instructed to give due weight to reports prepared by the Medical Foundation for the Care of Victims of Torture, a registered charity which provides medical treatment, counselling and other forms of assistance to the survivors of torture and organized violence. Medical reports form only part of the evidence, however: credibility remains an important factor in assessing whether an individual qualifies for asylum, as does the likelihood of future persecution. If an asylum caseworker has concerns about any aspect of a medical report prepared by the Medical Foundation, he or she should discuss those concerns with the Foundation before

reaching a final decision on the asylum claim. The letter of refusal sent to the applicant should also explain how the medical report has been considered and why it is not thought to be persuasive.

23. In certain cases, an individual may be removed to a safe third country. The Secretary of State may only return an asylum seeker to such a country if he is satisfied that the applicant's life or liberty would not be threatened in that country on any of the grounds set out in the 1951 Convention on Refugees; that the government of that country would not send the applicant elsewhere in breach of that Convention; and that the return would be consistent with the United Kingdom's other international obligations. These decisions may be subject to appeal before a special adjudicator or to judicial review. Since 1 September 1997, safe third-country cases within the European Union have been governed by the Dublin Convention. This provides a mechanism for determining which member State should be responsible for deciding an asylum application. The applicant can only be transferred under the Convention if the receiving State agrees that it is responsible for determining the claim.

24. A number of organizations have expressed concerns about aspects of current asylum policy, and its effect in a number of individual cases. In the light of these concerns, the Government is currently conducting a wide-ranging study of the asylum process as a whole, including the certification process and "designated list" of safe countries introduced by the 1996 act, the provision of accommodation and support to asylum seekers, and other issues. The study is expected to conclude early in 1998.

25. The Government also intends that an individual should be able to rely on European Convention on Human Rights rights in an appeal to a special adjudicator under the 1993 act. The Human Rights Bill will therefore make provision to enable a minister to confer jurisdiction on a tribunal to determine Convention issues or to grant a remedy where a public authority has acted incompatibly with Convention rights. The intention would be to use this power to extend the rights of special adjudicators so as to allow a person appealing on grounds under the 1993 act also to appeal on the ground that his removal from the United Kingdom would be unlawful under the Human Rights Act. An appellant who succeeded on this ground would not be granted asylum but could not be removed from the United Kingdom to the country concerned and would be eligible for exceptional leave to remain.

Individual cases raised by the Committee

26. During the oral examination on the second report the Committee asked for further information on the case of Karamjit Singh Chahal, a Sikh of Indian nationality, who was at the time contesting his deportation to India. The basis of the deportation was that it would be conducive to the public good for reasons of national security and other reasons of a political nature, namely the international fight against terrorism. Mr. Chahal had applied for asylum following notification of the decision to deport him.

27. Mr. Chahal's case was considered by a panel of independent advisers. The rejection of his asylum application was also upheld by the United Kingdom's courts, who accepted the Secretary of State's contention that

Mr. Chahal would not be at risk if he were to be deported to India. Mr. Chahal subsequently took his case to the European Court of Human Rights. On 15 November 1996 the Court delivered its judgement, finding against the Government on the three main points at issue. A copy of the judgement is at annex C. Mr. Chahal was released from Bedford Prison the same afternoon; the deportation order was revoked and Mr. Chahal was again given indefinite leave to remain in the United Kingdom. Three other individuals detained on similar grounds were also released.

28. Because of the problems which the Court found with the existing procedures, the Government has not sought to deport anybody on national security grounds since the judgement. Parliament has now passed legislation to bring procedures for national security deportations into line with the Convention. The Special Immigration Appeals Commission Act 1997 (annex D) gives a right of appeal to a new Commission in certain cases, including those cases where there is an intention to deport on national security grounds but an asylum application has been made. The Commission will consider the merits of the asylum application, and any claims that an individual will be subject to inhuman or degrading treatment for other than 1951 Convention reasons, before it considers the national security case. If the Commission finds that there is such a risk, the deportation proceedings will be discontinued. The decision of the Commission, which will be chaired by a senior judge, will be binding on the Secretary of State. It is expected that the Commission will be able to consider its first cases in the early part of 1998.

29. The Committee also asked for information about an Algerian asylum seeker who was said to have been returned to his country of origin and then killed in February 1994. We believe this to be the case of Said Khassioui. Mr. Khassioui had applied for asylum in the United Kingdom on 24 February 1993 following his arrest on suspicion of immigration offences. Less than a week later, before the asylum application had been referred to the Home Office for consideration, Mr. Khassioui withdrew his application and signed a form indicating that he had no fear of persecution. He then voluntarily returned to Algeria. He was said to have been killed there almost a year later. It is not the Government's policy to seek to dissuade individuals from returning to their country of origin where they choose, and are free, to do so.

Article 5

30. As described in previous reports, under section 134 of the Criminal Justice Act 1988 the criminal offence of torture is committed whether the conduct takes place in the United Kingdom or elsewhere, and irrespective of the nationality of the victim. There has been no change to these provisions. Acts of torture are also "grave breaches" of the Geneva Conventions, and the Geneva Conventions Act 1957 provides that such breaches are offences under United Kingdom law. The Geneva Conventions (Amendment) Act 1995 (annex E) amends the 1957 Act to enable effect to be given in the United Kingdom to Protocols I and II to the Geneva Conventions, so that these could be ratified. The new legislation extends the offences under the 1957 Act to cover the victims of international armed conflicts protected under Protocol I. The United Kingdom expects to ratify both Protocols shortly.

Article 6

31. Procedures for the detention of individuals alleged to have committed torture remain as set out in paragraphs 40-46 of the initial report. The Police and Criminal Evidence Act Codes referred to were updated in 1997, but contain identical provisions on these procedures. Copies of the current Codes are in annex F.

Article 7

32. The safeguards for individuals to be prosecuted for alleged criminal offences were set out in paragraphs 47-52 of the initial report. These remain in place.

Article 8

33. Paragraphs 53-57 of the initial report explained that torture is an extraditable offence under the Extradition Act 1989. The Extradition (Torture) Order 1997 came into force on 1 September 1997: a copy is at annex G. It applies the Extradition Act 1989 to make extraditable the offence of torture described in section 134 of the Criminal Justice Act 1988 (as well as attempts to commit such an offence and participating in such offences) in the case of States Parties to this Convention where the United Kingdom has no other extradition arrangements which would apply to those offences. Countries with whom the United Kingdom has existing extradition arrangements are already covered by the Extradition Act 1989. To date, the United Kingdom has not received any requests for extradition of a person in connection with any offence of torture.

Article 9

34. As described in previous reports, the United Kingdom gives full legal assistance under the Criminal Justice (International Cooperation) Act 1990 to foreign courts or prosecuting authorities. The United Kingdom Central Authority for mutual legal assistance has not, to its knowledge, received any requests for assistance from overseas authorities in connection with offences involving torture.

Article 10

35. Previous reports have outlined the general principles - respect for the individual, humanity and the need to act within, and uphold, the law at all times - which underlie all training programmes for law enforcement and medical personnel. Recent developments, and further information requested by the Committee at the last oral examination, are set out below.

Police officers in Great Britain

36. Training for police officers in Great Britain continues to address the various statutory and common law provisions governing the rights of the individual, including restrictions on the use of force and firearms in the discharge of police duties, and the humanitarian treatment of detainees. Specific training in investigative interviewing, based on ethical principles

and emphasizing the rights of the individual, is now given to all police officers in England and Wales. A further training programme, aimed at the needs of officers supervising interviews, has been running since 1995.

37. The Police Staff College at Bramshill will host the next Annual Conference of European Heads of Police Training in May 1998. The theme of the conference will be "Human rights training" and the aim will be to examine current methods of training with a view to identifying best practices and areas for future action.

Retraining of police officers in Northern Ireland

38. Following the last oral examination, the Committee recommended retraining of police officers, particularly interviewing officers, in Northern Ireland to assist in promoting the peace process. A programme of community awareness has been devised and now forms part of initial recruitment training. With the help of external specialists in mediation techniques within the community, students are invited to examine the impact of their own background on their personal development, beliefs and opinions and compare these with individuals with differing social backgrounds and political or religious beliefs. Provision is also made for visits to churches of differing faiths and discussion of issues such as community perceptions of the Royal Ulster Constabulary, policing a divided society and human rights. In his 1996 Report (annex H), Her Majesty's Inspector of Constabulary noted the significant impact of the course upon its students, and recommended that community awareness training should now be extended to all officers, regardless of rank, as a matter of urgency. A senior Inspector in the Royal Ulster Constabulary has been appointed to take forward a training strategy for community awareness training for serving officers. All appropriate management training courses now also include a community awareness element.

Prison officers

39. The position on training for prison officers in the United Kingdom remains substantially as set out in paragraph 29 of the second report. The United Kingdom fully accepts the Council of Europe Recommendations for the Recruitment and Training of Prison Officers. In England and Wales, senior managers now receive specific training on the United Kingdom's international obligations, including the Convention against Torture. Further coverage of this subject in the Prison Officer Initial Training course is also under consideration.

40. Control and restraint techniques used by the three prison services are designed to meet the principle of minimum necessary force and to enable staff to restrain a violent or refractory prisoner with minimal risk of injury to all involved. All prison officers involved in the control of prisoners in the United Kingdom are required to have attended a basic training course to learn the correct procedures for restraint, and must attend annual refresher courses. Standards for the training of prison dogs and their use by officers are also being reviewed and developed in England and Wales. These include training to ensure that dogs are only allowed to use the minimum amount of force required to apprehend escapers and oppose any violence offered. The new standards are due to be introduced later in 1998.

Prison medical staff

41. The United Kingdom has accepted the draft Council of Europe Recommendation concerning the Ethical and Organizational Aspects of Health Care in Prison. In England and Wales, prison doctors receive tuition in aspects of medical ethics during their first year. A new two-year Diploma in Prison Medicine, validated by the Royal Colleges of Physicians, General Practitioners and Psychiatrists, was also introduced in 1996. The programme includes study of medical ethics and human rights, looking particularly at the work of the European Committee for the Prevention of Torture. In Scotland, all prison doctors receive a monthly programme of professional training on topical medical issues and service requirements.

42. In Northern Ireland, all Prison Service Medical Officers appointed since January 1996 have received induction training, including ethical training, provided through the Prison Service in England and Wales. The participation of medical officers in the Northern Ireland Prison Service in the new diploma course in prison medicine is also under consideration. A diploma course for practitioners in forensic health care has been initiated by the Northern Ireland Prison Service, together with the Royal College of Nursing. The two-year modular programme includes consideration of ethical and moral issues relating to human rights, race and ethnicity within the field of forensic health care.

Immigration staff

43. All asylum caseworkers receive training and instruction in dealing with applicants who may be victims of torture. Training covers issues such as the United Kingdom's international obligations to victims of torture, interviewing victims of torture and liaison with the Medical Foundation for the Care of Victims of Torture. Guidelines for the examination of survivors of torture produced by the Medical Foundation in 1995 have been issued to all medical officers in Immigration Service detention centres and Prison Service establishments designated to hold immigration detainees. Guidance on professional standards and best practice was also provided to all Immigration Service staff in 1997. This makes clear that harassment and discrimination are disciplinary offences. Race awareness training is also given to all Immigration Service staff and those working at immigration detention centres.

44. Training in methods of control and restraint forms part of "Care and responsibility" or "Breakaway" training for Immigration Service staff. Since 1994, over 160 members of staff of a variety of grades have attended 3-5 day courses run by staff from the Centre for Aggression Management at Ashworth Special Hospital in Merseyside. Forty of these staff have also attended refresher courses. Further courses will run in February 1998. Since 1994, over 500 staff have also attended "Violence in the Workplace" courses run by a consultant, with further courses planned for 1998. All private-sector staff providing detention and escort services receive training in control and restraint techniques from the police or prison services.

Article 11

Police Services

45. The use of police powers and procedures continues to be monitored through various means. Paragraphs 64-72 of the initial report and paragraphs 33-40 of the second report described the existing framework of legal and other safeguards which govern the use of police powers in the United Kingdom. All police services are also subject to regular inspection by Her Majesty's Inspectorates of Constabulary.

Emergency Provisions Legislation

46. The Government has noted the Committee's recommendations that the current emergency legislation should be repealed. It is pleased to be able to say that steady progress continues to be made in the peace process. However, some terrorist groups on both sides remain active and a number of violent incidents have continued to occur, demonstrating the continuing ability of some groups to cause destruction and disruption.

47. An independent review of counter-terrorist legislation in 1996, conducted by Lord Lloyd of Berwick, made a number of recommendations for the future of the existing counter-terrorist legislation. The Government has now announced its intention to replace the current legislation with permanent counter-terrorism legislation to cover the whole of the United Kingdom. A consultation paper setting out the Government's proposals will be published early in 1998.

48. In the meantime, however, the Government has concluded that the security forces must continue to have available to them the powers they need to counter terrorism. To avoid creating a gap in the law, a bill to extend the life of the Northern Ireland (Emergency Provisions) Act 1996 by two years to August 2000 has been introduced and is currently halfway through its passage through Parliament. A copy of the bill is at annex I. If enacted, most of the provisions of the act will expire in 1999. The bill also repeals the powers authorizing the detention of suspected terrorists without trial, commonly known as "internment" (which currently only remain on the statute book in lapsed form); provides for the audio-recording of police interviews with terrorist suspects; and reduces the potential for Diplock courts by increasing the number of scheduled offences capable of being certified out by the Attorney-General and tried by a jury.

49. The Government also shares the Committee's wish to see the holding centres closed. After consultation with the Chief Constable of the Royal Ulster Constabulary, however, it has concluded with regret that closure is not possible at present. Nor is it possible to fund rebuilding of Castlereagh Holding Centre at present, as other building projects must take priority. The continued use of holding centres nevertheless remains under constant review. The Independent Commissioner for the Holding Centres, Sir Louis Blom-Cooper, and his deputy make frequent visits to the holding centres to monitor both conditions and procedures. The Commissioner's most recent report is attached at annex J.

Audio- and video-recording of interviews

50. The Committee recommended that audio-recording should be extended to all police interviews. In England and Wales, audio-tape recordings are now made of all interviews at a police station with people suspected of indictable offences, including terrorist offences. A limited number of forces make videotape recordings of interviews in serious and complex cases, but not currently in connection with terrorist offences. A smaller number of forces also make use of video-recording of interviews on a wider range of offences, although this is not currently widespread practice. The Home Office, the police and other agencies are currently considering setting up a project to evaluate the use and effectiveness of video-recording of interviews with suspects.

51. In Scotland, all interviews conducted by Criminal Investigation Department officers are audio-recorded as a matter of routine, and police forces are working towards the audio-recording of all interviews. The Government intends to consider, in consultation with the Police and Crown Office, possible future arrangements for the audio-recording in Scotland of interviews with terrorist suspects. Individual police forces may introduce video-recording of interviews if they have the resources to do so, and video cameras are increasingly being installed in custody suites and at charge bars.

52. In Northern Ireland, all interviews with suspects in connection with non-terrorist offences continue to be audio-recorded. Provision has now been made for the introduction of silent video-recording of interviews with terrorist suspects, to be governed by a Code of Practice issued in a similar way to other existing Codes under the Emergency Provisions Act. Introduction of the system is planned for early 1998. The Government is now also proposing to introduce the audio-recording of such interviews; provision for this is included in the Northern Ireland (Emergency Provisions) Bill currently before Parliament.

Access to legal advice

53. The Committee also recommended that lawyers should be present in all cases where individuals are questioned by the police. In all parts of the United Kingdom, any individual subject to questioning by the police or attending the police station in a voluntary capacity has the right to consult with a legal adviser and, as a general rule, to have a legal adviser present during interview if they so wish. These rights are set out in the Code of Practice for the detention, treatment and questioning of persons by police officers (Code C) issued under the Police and Criminal Evidence Act in England and Wales, in parallel Codes in Northern Ireland, and under the Criminal Procedure (Scotland) Act 1995. Under exceptional circumstances access to legal advice may be delayed, but these powers are only available under strict criteria.

54. In England and Wales, Police and Criminal Evidence Act Code C provides that when a person is brought to a police station under arrest, or is arrested at the police station having attended there voluntarily, the custody officer must tell him that he has the right to speak to a solicitor and is entitled to independent legal advice free of charge. A suspect must be notified at the

commencement or recommencement of any audio-recorded interview of his right to legal advice. Should he choose not to exercise this right, the interviewing officer should ask the reasons for refusal. These exchanges must form part of the audio-recording of the interview.

55. Under annex B to Police and Criminal Evidence Act Code C, access to legal advice may be delayed if a person is being detained but not yet charged, in connection with a serious arrestable offence (such as murder, manslaughter or rape), under specified circumstances: where an officer of the rank of superintendent or above has reasonable grounds for believing that such contact might interfere with evidence or physical injury, alert others suspected of having committed such an offence but not yet under arrest, or hinder the recovery of property. Access may be delayed only while these conditions exist and in no case for longer than 36 hours from the time of that person's arrival at the police station.

56. This provision also provides that the same criteria may be applied in order to delay access to a specific solicitor. The authorizing officer must have reasonable grounds to believe that the specific solicitor would, inadvertently or otherwise, pass on a message from the detained person or act in such a way which would lead to any of the outcomes outlined above. In these circumstances the officer should offer that person access to a solicitor on the Duty Solicitor Scheme. At present, the requirement to provide alternative legal advice is set out in a Note for Guidance; but the Home Office has undertaken to consider the inclusion of this provision in the body of the Code when it is next amended.

57. Under annex B to Police and Criminal Evidence Act Code C, access to a solicitor may also be delayed when a person has been detained under the Prevention of Terrorism (Temporary Provisions) Act 1989 for up to 48 hours from the time of arrest. The power to delay access is used very rarely: the Government is not aware of any use of it in the last two years.

58. In Scotland, access to solicitors for detained persons is now provided for by section 15 of the Criminal Procedure (Scotland) Act 1995. These provisions state that any person detained under section 14 of the 1995 Act and taken to a police station or other premises or place, is entitled to have details of their detention sent to a solicitor and to one other person without delay. Any person detained by the police will be told of this right immediately on arrival at the police station or other premises. Where an accused person is arrested on any criminal charge, section 17 of the 1995 Act entitles them to have a solicitor notified that professional assistance is needed. The solicitor must be informed where the person is being detained, whether the person is to be freed and, if not, the court to which they are to be taken and when they are due to appear there. The accused and solicitor are entitled to have a private interview before the examination or appearance in court. Where an individual is being held on suspicion of terrorism, access to legal advice may be delayed under specified circumstances; but legal representation during interview cannot be refused.

59. In Northern Ireland all non-terrorist suspects have access to legal advice before and during interview, in accordance with the provisions of the relevant Codes of Practice, which are comparable to those for England and

Wales. All suspects held in connection with terrorist offences in Northern Ireland also have the right to legal advice. Such suspects' access to a lawyer may be delayed for up to a maximum of 48 hours only if the police have a reasonable suspicion that allowing access would prejudice the investigation. Lawyers sometimes may be used to convey information, however unwittingly, or be forced to reveal it under duress, and this may prejudice the outcome of the investigation. Once a reason for delaying access has expired the suspect will always be told that he may exercise his right to legal advice. In 1996 13 requests for legal advice were delayed. Requests by lawyers to be present during interviews with terrorist suspects are considered on their merits.

Right to silence

60. During the last oral hearing, the Committee expressed concern about the use of provisions on the drawing of inferences from silence in the 1994 Criminal Justice and Public Order Act and similar provisions in Northern Ireland. These issues were raised in a case taken by John Murray to the European Court of Human Rights in Strasbourg. The Court, in a judgement delivered on 8 February 1996, found that neither the power to delay access to legal advice nor the power to draw inferences from silence in itself contravened the Convention, but that the drawing of such inferences in the absence of legal advice did so. The Government is actively considering its response to this judgement, a copy of which is in annex K.

61. A programme of research has also been undertaken to monitor the effects of the right to silence provisions in the 1994 legislation. The first part of this research, covering changes in the frequency of the suspect's use of the right to silence in police interviews, was published in December 1997, and is attached as annex L; the second part, due to be published in the first part of 1998, will look at the wider impact of the provisions on the criminal justice system.

Measures to prevent ethnic discrimination

62. During the last oral hearing, the Committee also expressed concern about allegations of ethnic discrimination by the criminal justice agencies. All criminal justice agencies in England and Wales, including the police, are bound by section 95 of the Criminal Justice Act 1991. This requires the Secretary of State to publish annually information he considers expedient to enable those engaged in the administration of criminal justice to avoid discriminating against any persons on the ground of race, sex, or any other improper ground. Ethnic monitoring of police use of "stop and search" powers was among a number of core performance indicators introduced in April 1993. From 1 April 1996, ethnic monitoring was extended to arrests, cautions, homicides (both victims and perpetrators) and deaths in police custody. Published figures for 1996/97 are attached at annex M.

63. Her Majesty's Chief Inspector of Police also conducted a thematic inspection on police community and race relations in 1996/97, examining current practices in police forces in the light of the views and the wishes of the community at large - in particular those of black and Asian citizens. The report concluded that, despite major efforts made by the police, performance

was still patchy and made a number of recommendations for tackling racial discrimination in the police service and for providing a better police service to all sections of the community. The Government welcomed the report and has established a working group to coordinate implementation of its recommendations. The Inspectorate will conduct a follow-up inspection before the end of 1998.

Deaths in police custody

64. Figures for deaths and suicides in police custody in the United Kingdom since 1994 are set out in the tables below.

(a) England and Wales

Year	Total number of deaths	Deaths by suicide
1994	52	4
1995	54	4
1995-1996	50	7
1996-1997	57	2 1/

1/ Inquest verdicts awaited on 28 deaths.

(b) Scotland

Year	Total number of deaths	Deaths by suicide
1994	7	0
1995	13	2
1996	11	2
1997	Figures not yet available	Figures not yet available

(c) Northern Ireland

Year	Total number of deaths	Deaths by suicide
1994	1	0
1995	0	0
1996	0	0
1997	1 1/	0

1/ Precise place of death remains to be established.

65. The Government is aware of concerns about the number of deaths in police custody in recent years. All deaths in custody are a matter of serious concern to the Government, particularly if there are allegations of failure of duty or maltreatment on the part of police officers. All such deaths are subject to both internal investigation and to a public inquest (or, in Scotland, a Fatal Accident Inquiry) to see what lessons can be learned. The Government has also established an independent inquiry into the quality of decision-making by the Crown Prosecution Service in death in custody cases, due to report early in 1998 (see para. 113 below).

66. In all parts of the United Kingdom, procedures are in place for ensuring that any individual considered to be at medical or psychiatric risk receives attention by a police surgeon immediately or, in urgent cases, is sent to hospital. A study of self-harm and suicide by detained persons, illustrating preventative measures, has also recently been circulated to all police forces in England and Wales. The Home Office are presently conducting research into all deaths in police custody since 1990, and the findings of the study will be used in considering how best to minimize the potential risk to those in custody. A prisoner risk assessment and escort record form has also been developed for universal use by all custodial agencies. This should be introduced in England and Wales early in 1998.

67. Concerns have also been expressed about the use of restraint procedures by the police. Guidance on self-defence and restraint is issued and kept under review by the Association of Chief Police Officers. The Association's Self-Defence and Restraint Manual provides advice on the use of, among other things, neck-holds and the use of handcuffs. The manual highlights the risks associated with certain methods of restraint and provides guidance on how best to avoid injury and minimize discomfort to the person being restrained at the same time as providing sufficient protection to the officer and members of the public. The manual provides operational guidance for police officers and is not therefore publicly available.

68. Concerns have also been expressed by NGOs and others about the use of CS spray by police officers as a means of defence. Following the inquest into a 1997 death in police custody, that of Ibrahima Sey, the Home Secretary examined the evidence submitted to the inquest and concluded that CS spray remains an appropriate piece of equipment for police officers to use in defending themselves against the violence sometimes directed against them.

Private security industry

69. Following the last oral examination, the Committee recommended that the Government should examine policies favouring private policing, with a view to regulation. The Government intends to introduce statutory measures to regulate the private security industry in England and Wales to ensure that suitable individuals work within the industry. The Government has recently conducted a consultation exercise seeking the views of the industry, the police and others on the type and scope of such regulation. It intends to develop practical proposals to protect the rights and safety of the public, with a view to introducing legislation as soon as practicable. In the light of this, measures might then be adopted as necessary in other parts of the United Kingdom.

Military powers in Northern Ireland

Use of plastic baton rounds

70. The Committee also expressed concern during the last oral hearing at the use of plastic baton rounds by the armed forces in Northern Ireland. The Government recognizes that the use of plastic baton rounds has given rise to controversy and has been the subject of considerable debate, particularly when it has resulted in the death or serious injury of civilians. No method for controlling public order situations, including the use of plastic baton rounds, is entirely safe. However, these are not designed as lethal weapons but rather to inflict a temporarily disabling blow, and their use is governed by strict rules designed to minimize the possibility of injury.

71. It is the professional judgement of the Chief Constable of the Royal Ulster Constabulary that plastic baton rounds must continue to be available to the security forces as a means of controlling difficult and potentially life-threatening public order situations. No other method of control has been identified as providing a similar degree of deterrent, particularly where public order situations have to be policed against the background of a terrorist threat. In 1996, Her Majesty's Inspector of Constabulary conducted a specific examination of the use by the RUC of plastic baton rounds (see annex H, appendix D). He noted that, in the considered view of the chief officers of police, the baton gun was:

> "an effective means by which rioters armed with petrol bombs and other lethal missiles can be kept at a distance, contained or dispersed. Equally it provides a means of disabling, at a safe distance, those posing a serious threat to life which would otherwise require the intervention of officers at close quarters, and thus potentially placing them at great risk".

The Inspector concluded that plastic baton rounds should continue to be available for use in Northern Ireland. The Government fully supports this view. A number of specific recommendations made by the Inspector about the use and monitoring of plastic baton rounds are being implemented by the Royal Ulster Constabulary.

Prison Services

72. As noted in previous reports, regimes in the three Prison Services - England and Wales, Scotland, and Northern Ireland - are kept under scrutiny through a variety of means. These include scrutiny by Parliament, detailed external audit by the Chief Inspector of Prisons and regular visits by the local community watchdog body, the Board of Visitors (or in Scotland, Prison Visiting Committee). Prison Rules continue to provide a statutory framework for procedures and safeguards for prisoners.

Prison conditions

73. The average daily prison population currently stands at 63,788 in England and Wales, as compared with 44,600 in 1993. Scotland has seen a

proportionately smaller increase, rising from 5,637 in 1993 to 5,992 in 1996-1997. The prison population in Northern Ireland has decreased, from 1,907 in 1993 to just above 1,600 in 1997.

74. Despite current pressures on prison accommodation, the Government remains committed to providing decent conditions for prisoners and eliminating overcrowding. To this end, the capacity of the Prison Estate in England and Wales has been increased substantially in recent years. Since 1985 and 1995, 24 new prisons have opened. A further five new establishments are planned to open before 2000, with plans for a sixth, providing 4,300 further new places. In addition, a temporary prison ship, The Weare, was opened in June 1997, providing 400 additional places.

75. As a consequence of the building programme the high levels of overcrowding experienced in the late 1980s in England and Wales were greatly reduced in the early 1990s. Since 1994, however, the unprecedented rise in the prison population has meant that, despite increased capacity, overcrowding has increased, although it remains well below the peak level of 1987/88. At the end of December 1997 no occupants were being held three to a cell designed for one: but double occupancy of single cells had risen to 10,848. Over the same period, however, refurbishment and modernization of existing establishments have also improved conditions for prisoners by providing upgraded facilities. In particular, the sanitation programme has been completed, and the practice of "slopping out" ended in April 1996. The Prison Service has also ceased the practice of holding prisoners in police cells.

76. During 1996, a number of organizations expressed concerns about the use of Special Secure Units (or SSUs) in England and Wales. These are establishments designed to hold exceptional risk prisoners (convicted and remand prisoners who pose a particularly grave danger to the public and who are judged to have the personal resourcefulness to overcome, with or without external assistance, all but the highest conditions of security). Following concerns expressed about the health of prisoners in these units, the Government invited a former Chief Medical Officer, Sir Donald Acheson, to review the regime in SSUs. Sir Donald made nine recommendations: of these, all but one - a recommendation to reintroduce open visits (see para. 81 below) - have been implemented. In November 1997, Sir Donald Acheson made a further visit to the only Unit currently in use, Whitemoor, and declared himself satisfied with the improvements made. Six prisoners are currently being held in the Whitemoor Unit.

77. In Scotland, measures to alleviate overcrowding are continuing. A new 60-place prisoner houseblock opened at Greenock in December 1995 and a further new 126-place houseblock is due to be built at Edinburgh during 1998. A new 500-cell prison will be constructed in the second half of 1999. Since 1995, major upgrading of various existing accommodation halls has also taken place, involving a total of some 600 prisoner places. This has increased to 70 per cent the proportion of prisoner places which now have access to night sanitation.

78. In Northern Ireland, the prison estate is small and relatively modern. It currently consists of three prisons and one Young Offender's Centre. Following the decrease in the prison population, one prison, Belfast, was

closed in April 1996 with prisoners transferring to other prisons; this will, however, remain available for emergency use until two new 98-cell blocks, presently under construction at Maghaberry, are completed in 1998. A major refurbishment programme is also being carried out at the Young Offender's Centre. All prisoners have access to night sanitation.

Access to legal advice

79. In all parts of the United Kingdom, the rules governing prisoners' contacts with their legal advisers are set out in Prison Rules and other internal Instructions to Governors. The rules governing legal privilege apply both to convicted prisoners and prisoners on remand and are designed to safeguard their rights when contacting their legal representatives. All visits by legal advisers take place in the sight, but out of hearing, of a prison officer.

80. Some organizations outside Government have expressed concerns about the conditions in which legal visits take place in Special Secure Units (or SSUs) in England and Wales. In these units, all visits - including visits from legal counsel - are held in "closed" conditions which prevent any physical contact between visitors and prisoners. To protect legal confidentiality, interviews with legal advisers take place out of earshot of prison staff.

81. The Prison Service considers that closed visits are the only way in which the Prison Service can ensure that illicit articles are not passed between prisoners and their visitors. It was therefore unable to accept the recommendation made by Sir Donald Acheson that open visits should be reintroduced in such units (see para. 76 above). The closed legal facilities in Special Secure Units have been examined by an independent barrister, who found them to be satisfactory. He concluded that there were no impediments to holding a proper legal conference under closed conditions. The courts, following an appeal against this policy, have also accepted the need for closed legal visits facilities. The closed legal visits policy is not absolute: requests for open visits may be approved in exceptional circumstances, and the Prison Service will continue to use its discretion in the application of this policy.

82. Provision for visits, including legal visits, to take place in closed facilities under specified circumstances is also made in the prison rules in Scotland. In Northern Ireland, all legal visits in prisons are conducted in legal visits facilities in open conditions in the sight, but out of the hearing, of prison staff. This remains the case even where a prisoner may, exceptionally, be subject to a period of closed visits as a result of receiving illicit substances during visits with family or others.

Use of restraints

83. The Prison Services keep policies on the use of restraints under constant review. In February 1997, following concerns expressed about several individual cases, the Prison Service in England and Wales issued revised guidance in the Security Manual about the use of restraints during hospital escorts and bedwatches. This makes it clear that restraints may not be used where a risk assessment indicates that they are unnecessary, and that they

must be removed immediately, during a hospital escort, if they are impeding treatment or endangering life. There have also been significant policy changes in the way pregnant prisoners are treated on hospital escorts.

84. Concerns were also expressed about the use of body belts by the Prison Service in England and Wales, following the tragic death on 8 October 1995 of a prisoner, Dennis Stevens, who had been restrained in this way. Body belts may be used as an exceptional measure when all other reasonable means of restraint have failed. They may only be used with the authority of the governor in charge and the medical officer, provided that there are no clinical reasons not to do so, and their use must be in accordance with the relevant provisions of the Prison Rules and of the United Nations Standard Minimum Rules for the Treatment of Prisoners. Prisoners will not normally be held longer than 24 hours in a body belt. If the prisoner's behaviour means a further period of restraint is considered necessary, this must be expressly authorized by the Board of Visitors to the prison. The use of body belts is monitored at Prison Service Headquarters. In 1996, male prisoners were placed in body belts on 87 occasions. No female prisoners were restrained in this way.

85. At the inquest into Mr Stevens's death in December 1997, the jury returned a verdict of accidental death. No recommendations on the use of body belts were made by the coroner. The Prison Service considers that the existing safeguards for the use of body belts are adequate, but will continue to monitor their use.

Deaths in custody

86. The following tables show the number of deaths in prisons in the United Kingdom since 1994.

(a) England and Wales

Year	Average daily population	Self-inflicted deaths	Other deaths	Total number of deaths	Self-inflicted deaths per 10,000 prisoners
1994	48 600	62	46	108	12.8
1995	51 000	59	58	117	11.6
1996	55 300	64	56	120	11.6
1997	61 100	70	45	115	11.5

(b) Scotland

Year	Average daily population	Self-inflicted deaths	Other deaths	Total number of deaths	Self-inflicted deaths per 10,000 prisoners
1994	5 585	16	9	25	28.7
1995	5 626	10	9	19	17.8
1996	5 862	16	10	26	27.3
1997	Figures for 1997 not yet available.				

(c) Northern Ireland

Year	Average daily population	Self-inflicted deaths	Other deaths	Total number of deaths	Self-inflicted deaths per 10,000 prisoners
1994	1 870	3	3	6	16.0
1995	1 703	2	1	3	11.7
1996	1 633	2 1/	1	5	12.2
1997	1 610 3/	11, 1/ 2/	5	8	6.2 2/

1/ Includes one suicide at home on temporary release from prison.

2/ Inquest verdicts awaited on 2 deaths.

3/ Estimated figure.

87. All deaths in custody are reported to a coroner (or the equivalent in Scotland) who holds an inquest before a jury. All apparent suicides and other "non-natural" deaths are the subject of a confidential and detailed internal investigation. Any recommendations are considered carefully in the light of the coroner's findings. The Prison Services remain committed to doing everything possible to reduce the likelihood of such deaths occurring.

88. The vast majority of other deaths in prison are from natural causes. Deaths of prisoners during or following restraint, of which there have been seven in England and Wales in the last nine years, are a source of concern. There have been none since 1995. Following a coroner's inquest held in January 1997, the Prison Service has reviewed instructions on control and restraint procedures. Revised guidance has been issued highlighting the need for staff to be alert for symptoms and signs which might require urgent medical attention.

89. Over the last 15 years self-inflicted deaths in prisons in England and Wales have risen steadily at a rate of around 6-8 per cent annually. However, taking into account the increase in the prison population, the underlying rate

has remained stable over the last three years. The number of deaths in Scotland has also risen. However, suicides amongst males aged under 35 in the community have also risen significantly over the last 10 years; and prisoners entering custody include large numbers of individuals from sub-groups of the population known to be at heightened risk of suicidal behaviour. The Committee asked how these figures compare with those of other Western European countries. Comparative figures for some other European countries have been collected by the Council of Europe since 1994. These suggest that rates of suicide in prisons in England and Wales and Northern Ireland are consistently lower than in a number of comparable Western countries, while the rate in Scotland is more variable and at times higher. The latest published figures, for 1995, show suicide rates of 15.3 per 10,000 prisoners for Germany, 18.5 for France, 19.6 for Belgium, 14.5 for the Netherlands, and 24.0 for Norway, as compared with United Kingdom figures of 11.6 for England and Wales, 11.7 for Northern Ireland and 17.8 for Scotland. Full figures for 1994 and 1995 are attached as annex N.

90. The current rates of suicide in prisons remain, nonetheless, a matter of considerable concern to the Government. In England and Wales, the Prison Service's strategy for caring for those at risk, outlined in paragraphs 82-84 of the second report, was reviewed in 1995, and confirmed as sound. The strategy has also received positive approval from non-governmental organizations outside the Prison Service. The Government believes that the strategy, based on staff training, support plans for those at risk, and close co-operation with the voluntary organization, the Samaritans, remains sound in principle. All establishments now have links with local branches of the Samaritans, who provide individual befriending for prisoners in crisis; and in over 90 (two-thirds of) prisons the Samaritans train and support prisoners who act as listeners to fellow prisoners in distress. A range of further measures is also being developed: these include reviewing screening procedures to identify those at risk, improving cell design to provide a safer environment, and further research into suicide and self-injury.

91. Following the increase in deaths in recent years, the Scottish Prison Service reviewed their suicide prevention strategy during 1996. This strategy will be reviewed annually to keep pace with any changes in operational policies or practices. Staff training on the implementation of the revised strategy has recently started. In Northern Ireland, following a review of suicide awareness and prevention procedures in 1996, the Prison Service there has produced a new procedural manual which takes a multi-disciplinary approach to the assessment and management of at-risk prisoners. Each prison has a suicide awareness and management group which meets on a regular basis to consider the monitoring and local implementation of the Service's suicide policy, examine local incidents of suicide or self harm and make recommendations for procedural or other improvements. An awareness training programme for staff has also been developed.

Use of unfurnished accommodation

92. Concerns have been expressed by some non-governmental organizations about the use of unfurnished accommodation for prisoners at risk. Under normal circumstances unfurnished accommodation (sometimes known as strip-cells) will not be used for those prisoners who are depressed or

considered at risk of suicide or self-harm: the aim is to provide supportive human contact for those in crisis; and at-risk prisoners are generally placed in shared accommodation wherever possible, unless this is considered too disturbing for other prisoners. Use of unfurnished accommodation is a last resort, and the length of time spent in such accommodation is kept to a minimum, the aim being to return individuals to normal accommodation as soon as possible. In England and Wales, work is already under way to phase out the use of unfurnished accommodation as a means of caring for the suicidal; and a working party has been established to look at alternatives.

Bullying

93. The Government also recognizes that bullying takes place in many prisons and that work is needed to ensure that prison is a safe place in which young people can concentrate on building their futures. The Prison Service in England and Wales has committed all establishments (including all those holding young offenders) to implementing effective anti-bullying strategies, and is also undertaking a comprehensive programme of work aimed at tackling bullying in prisons. This includes development of a national staff training pack, a service-wide evaluation of existing strategies with the aim of disseminating examples of best practice, and a pilot project to develop a coordinated approach to bullying.

Contracting out/privatization of prisons and escort services

94. No prison is wholly privatized. Instead, the management of certain prisons is contracted out to private sector companies. Six prisons are currently managed by private sector companies in England and Wales. A further five establishments have been put out to tender under the Design, Construct, Manage and Finance programme, under which a consortium of commercial companies is contracted to build a prison and subsequently manage it. Two of the existing contracted-out prisons are already part of this programme. Each privately run prison is headed by a Director approved by the Home Secretary. The Director is an employee of the contractor (as are his staff), and is immediately responsible for the management of the prison.

95. A framework of safeguards, controls and accountability for these contracts is provided under the Criminal Justice Act 1991, as amended by the Criminal Justice and Public Order Act 1994. These provide for the same degree of public accountability which applies to public sector prisons. A Prison Service controller (an experienced and senior governor grade) must also be available on site each day to monitor the contract and undertake those functions reserved to state servants: to adjudicate on disciplinary charges brought against prisoners and investigate allegations against staff. He or she is assisted by an Assistant Controller who is also a state servant. All prisoner custody officers at contractually managed prisons (the equivalents of prison officers at directly managed prisons) must be vetted by the State and trained to a Prison Service syllabus.

96. The Home Secretary has commissioned a review of the policy on private sector involvement in prisons. This review includes consideration of whether to extend the regulatory powers of the Prison Service over privately managed

prisons in areas like prisoners' requests and complaints, sentence calculation, scrutiny of security classifications, and frequency of security audits. The review is due to be completed in 1998.

97. Escorts of prisoners to and from court have also been contracted out to private companies. The Criminal Justice Act 1991 requires that all court escort contracts are monitored by the Prison Service. This is to protect prisoners and to ensure that standards of care are maintained, as well as monitoring value for money and contract compliance. The escort monitor will investigate allegations by prisoners about any action by a contractor or a member of their staff. In addition, volunteer members of the public (lay observers) are appointed under the terms of the Act to inspect and report on the conditions under which prisoners are transported and held. A panel of lay observers monitors each escort area and reports annually to the Secretary of State.

98. All members of staff working with prisoners in privately run establishments have to be certified by the Secretary of State as prisoner custody officers. They are subject to the same standard of vetting as prison officers and must complete an initial training course of about eight weeks' duration. A prisoner custody officer's certificate may be suspended by the escort monitor and revoked by the Secretary of State if he or she is no longer considered a fit and proper person to carry out duties.

Immigration Service

Use of detention

99. Safeguards and monitoring arrangements for the use of detention by the Immigration Service were outlined in paragraph 75 of the initial report and paragraphs 66-69 of the second report. The Government is aware that concerns continue to be expressed by a number of non-governmental organizations about the use of detention for people seeking asylum in the United Kingdom. However, individuals are not detained merely because they are seeking asylum; and no-one recognized as a genuine refugee under the United Nations Convention Relating to the Status of Refugees will be detained. Detention is used sparingly and only where there are good grounds for believing that a person will not comply with the terms of their temporary admission, or on grounds of national security. At any one time only about 1.5 per cent of those who may at some stage have sought asylum are actually detained. A copy of the current instructions to immigration officers on the use of detention, requested by the Committee at the last oral hearing, is attached as annex O. These instructions are likely to be amended in the near future.

100. Almost every asylum-seeker has the right to apply for bail to an independent adjudicator. (The exceptions to the right to apply for bail apply to certain small categories of deportee: once a deportation order has been signed, an individual is entitled to apply for bail only if he or she was not detained before the deportation order was signed and has an appeal outstanding.) Detention may also be challenged in the courts by way of an application for habeas corpus, or bail may be sought from the courts once a case is before them on an application for judicial review of the substance of the case.

101. Some detainees are held in prison accommodation, usually because their behaviour or past history indicates that they need a greater level of control or supervision than can be provided in immigration-detention accommodation. Detainees held in prisons under Immigration Service powers are generally held in separate wings or with other unconvicted prisoners; these should be distinguished from foreign prisoners serving a sentence following conviction for a serious offence and held in prison while arrangements for deportation are being made. The rise in the prison population has, regrettably, made it impossible to implement plans to rationalize the use of Prison Service accommodation to five establishments in order to provide discrete facilities for Immigration Act detainees, separate from the rest of the prison population. The use of non-allocated prisons has therefore had to continue for the present time, although it remains the Government's aim to improve this situation in the longer term.

102. Contracts for domestic detention management at immigration detention centres are awarded after competitive tender to the private sector and are managed and monitored for this purpose under the direction of senior Immigration Service management. There are also Immigration Service personnel at each detention centre responsible for all operational matters, including advice and guidance to individual detainees about their immigration status and progress on their case. Private contractors at immigration detention centres must undergo a comprehensive training programme which includes an immigration induction course, detainee care and welfare, first aid, race awareness, control and restraint, self injury and suicide prevention, and health and safety.

103. The Government is currently reviewing all aspects of immigration detention strategy including the use of bail, detention criteria, length of detention and options for independent review, the use of prisons, and alternatives to detention. A number of non-governmental organizations have been consulted on specific areas of the review. It is expected that the results of the review will be announced early in 1998.

Recording of interviews and access to legal advice

104. The Government is also aware that concerns have been expressed by some non-governmental organizations about the recording of interviews and access to legal advice for people seeking entry to, or asylum in, the United Kingdom. A contemporaneous written interview record is taken for those passengers arriving at air and sea ports for whom further examination is deemed necessary; a copy is provided upon request. Those who seek asylum are always provided with a copy of their question-and-answer interview. Interviews with in-country immigration applicants about their immigration background, including with those who attend the Immigration Service Headquarters in Croydon to seek asylum, are invariably recorded on audio-tape. Such individuals are also advised that they may wish to seek legal advice. Those interviewed in police stations following arrest are further notified of their right to free legal advice under the provisions of the Police and Criminal Evidence Act. Copies of interview tapes are provided upon request.

105. Every effort is made to ensure that individuals detained know how to obtain free legal advice about their case. Detention Centres display notices

in various languages on how to contact the Refugee Legal Centre, and the immigration or detention staff on site are able to contact representatives on their behalf if necessary. Under current arrangements, legal representatives can visit their clients in immigration detention centres at any time between 9.00 and 21.00 hours on any day of the week, and detainees have access to telephones and receive incoming calls on a separate system provided for this purpose. Similar arrangements apply to those detained in prisons, although visiting times may be more restricted. The Home Office has seen no evidence to suggest that asylum applications are being refused and applicants removed as a result of inadequate access to legal advice.

Medical and health care in Immigration Service Custody

106. All asylum-seekers are seen by port medical inspectors on arrival. Any individuals detained are also offered a medical assessment within 24 hours of arrival at a detention centre. Any detainee who says that he or she is suffering as a result of torture will be seen initially by a doctor from the service's medical panel. A detainee seeking to obtain evidence of torture to support an asylum claim may freely seek an external medical opinion. Port medical inspectors and immigration staff are trained to be alert to signs of stress and suicide risk. Staff with appropriate mental health qualifications are included in the medical panel at detention centres, and referrals for psychiatric assessment are made where appropriate. Some Contractors' staff at detention centres have attended counselling skills courses, and additional courses compiled with the assistance of the Samaritans are being arranged.

107. At detention centres, arrangements are made for a doctor to visit the centre on a daily basis and to be on call for any emergencies or consultancies. Nursing coverage is available seven days a week. Detainees needing more specialized care are transferred to an outside hospital. The Government is aware of concerns expressed about the care of asylum seekers, set out, for example, in a recent study, A Second Exile, by C. K. Pourgourides and others. The Government believes that the standard of health care offered to detainees is high, but is nevertheless considering ways of strengthening the monitoring of medical services provided.

108. All "front line" Immigration Service staff and staff at immigration detention centres have received suicide awareness training, as do all private sector detention and escort staff. Suicide awareness is also included in the induction training provided to new entrants. There have been no deaths in immigration detention centres since 1990. One immigration detainee died by hanging in Prison Service custody in 1995, pending an appeal against a notice of intention to deport following completion of a sentence for drugs related offences.

Detention under Mental Health powers

109. Arrangements for monitoring the Mental Health Act 1983 in England and Wales, and comparable provisions in Scotland and Northern Ireland, were set out in paragraphs 83-95, 103, 137-139 of the initial report and paragraph 70 of the second report. The current Code of Practice provided under the Act provides guidance to registered medical practitioners, nurses, hospital staff and others in the field, on how to proceed when carrying out duties under the

Act. In 1997, the Government consulted a wide range of organizations for views as to how this guidance might be improved, and proposes to introduce a revised Code during 1998.

Articles 12 and 13

Police discipline and complaints in England and Wales

110. Police complaints and discipline procedures, laid down by Parliament under part IX of the Police and Criminal Evidence Act 1984, remain as set out in previous reports. Figures for complaints considered by the independent Police Complaints Authority, which has responsibility for supervising the investigation of complaints, are set out below.

Year	Complaints considered by the PCA	Disciplinary charges against police officers
1994-1995	19 103	345
1995-1996	18 607	253
1996-1997	19 953	235

111. The most serious cases are those involving a death in custody, an incident involving a police vehicle or the police use of firearms. During 1996-1997, the Police Complaints Authority supervised 48 investigations into deaths in police custody, 29 investigations into deaths or injuries involving police vehicles and 4 investigations into the police use of firearms. In supervising the investigation, the PCA approves the appointment of the investigating officer and has the power to issue directions on the course of the inquiry. A copy of the 1996/97 Police Complaints Authority Annual Report which includes details of specific cases investigated by the Authority during the year, is attached as annex P.

112. On 15 January 1998, the House of Commons Home Affairs Select Committee published a report on police disciplinary and complaints procedures. The report recommends changes to the existing system to make the investigation of complaints more independent and disciplinary procedures more effective and faster. The Government is considering these recommendations closely and will respond with proposals shortly.

113. Following concerns about the handling of cases against police officers arising from a number of deaths in police custody, a senior judge, Mr. Gerald Butler, was appointed to lead an inquiry into the process and quality of casework decision-making within the Crown Prosecution Service (CPS) in death in custody cases concerning the police and prison services in England and Wales. The inquiry will make recommendations as appropriate into the approach taken by the CPS and will look at the handling of three specific cases: Shiji Lapite, Richard O'Brien and Graham Treadaway. The inquiry is expected to report early in 1998.

Police discipline and complaints in Scotland

114. In Scotland, Chief Constables of each police force have responsibility in law for investigating complaints against their own officers. All complaints involving alleged criminal conduct by police officers are referred to procurators fiscal, who are entirely independent of the police service, and who decide whether or not criminal proceedings will be taken against any officer as a result of a complaint. Figures for complaints made against the police in Scotland are set out below.

Year	Complaints against the police	Police disciplinary cases
1994	1 654	406
1995-1996	1 444	352
1996-1997	1 333	330

115. Arrangements for reviewing the way in which police forces handle non-criminal complaints were introduced following the passage of the Police and Magistrates' Courts Act 1994. The 1994 Act, which amended the Police (Scotland) Act 1967, gave new powers to Her Majesty's Chief Inspector of Constabulary to examine the manner in which Chief Constables have dealt with complaints against the police by members of the public. The Act also gave the Chief Inspector the power to direct a Chief Constable, in certain circumstances, to reconsider a complaint and to have regard in doing so to further information emerging after the complaint was dealt with. To provide a further degree of independent scrutiny, the Lay Inspector, who has a specific remit to review the way police forces handle complaints in general, is always involved in such examinations. A copy of the Inspectorate's 1996-1997 report is as annex Q.

Police discipline and complaints in Northern Ireland

116. In Northern Ireland, the Independent Commission for Police Complaints must supervise the investigation of any case where there are allegations of serious injury and may supervise any other which is in the public interest. Figures for complaints against the police in Northern Ireland are set out below.

Year	Complaints against the police	Police disciplinary cases
1994	3 530	27
1995	3 252	126
1996	3 498	78
1997	3 989	87

117. In recognition of concerns expressed by the Standing Advisory Committee on Human Rights and others about the level of public confidence in the police complaints system in Northern Ireland, an independent reviewer, Dr. Maurice Hayes, was appointed at the end of 1995 to examine the system. His report, published in January 1997, proposes the establishment of a new independent Police Ombudsman to receive all complaints against the police and decide how, and by whom, they should be investigated. The Ombudsman would have his or her own investigators with extensive powers to investigate complaints. The Government has introduced the Police (Northern Ireland) Bill (annex R) into Parliament in December 1997 to implement changes in line with these recommendations. The aim is to introduce the new arrangements in 1999.

118. The Committee also asked for further information about disciplinary action taken by the Royal Ulster Constabulary following the making of ex-gratia payments in cases against the police. No figures are currently kept of the number of civil cases leading to disciplinary action, whether cases lead to ex-gratia payments, are settled in court, or otherwise. The collection of such figures is complicated: for example, a blanket claim from a solicitor may cover several issues, on which payment may reflect a technical difficulty not justifying disciplinary proceedings; and not all complainants making civil claims may wish to make complaints or cooperate with investigations if they do. The Hayes report, while recognizing these difficulties, recommended introduction of an arrangement under which the new Ombudsman would be notified of all civil cases involving possible misconduct of officers as they arise and again where they are concluded. This will be considered alongside other arrangements to implement the changes provided for in the Police (Northern Ireland) Bill.

Military discipline and complaints in Northern Ireland

119. As described in the second periodic report, the Independent Assessor of Military Complaints Procedures keeps under review the Army's procedures for investigating non-criminal complaints against members of the armed forces. The Assessor reports to the Secretary of State annually. A copy of the 1996 report is as in annex S. During 1996 there were 24 formal non-criminal complaints made against the Army, of which one was substantiated. Twenty-seven allegations of criminal behaviour were dealt with by the Royal Ulster Constabulary, of which six remain outstanding. Five criminal complaints were dealt with by the Royal Military Police, of which four resulted in criminal prosecution.

Prison staff discipline and prisoners' complaints in England and Wales

120. Paragraphs 80-81 and 97-101 of the initial report, and paragraphs 91-97 of the second report, set out arrangements for complaints against prison officers and disciplinary proceedings taken against them since the last report. These procedures remain in place. The Prison Service is currently reviewing internal procedures for the investigation of serious incidents, including those where an allegation or complaint is made against members of staff. Guidance for prisoners on how to make a complaint will also be reviewed in 1998.

121. There is no reliable information on the total number of complaints made by inmates. Most complaints are dealt with locally in prisons, and no central record is maintained. The Prison Service Ombudsman began to receive complaints from prisoners in October 1994. In 1996, he received 499 complaints, of which 186 were upheld with 221 recommendations. The Prison Service accepted 88 per cent of those recommendations, rejected 8 per cent and partly accepted recommendations in 4 per cent of cases. A copy of the Ombudsman's report for 1996 is attached as annex T.

122. During the last five years, a total of 11 Prison Service staff were found guilty, under internal disciplinary procedures, of offences of assault on inmates. Of these, four were dismissed and seven were given punishments varying from a final warning through to loss of financial increments and loss of promotion prospects. Two officers resigned from the Service before disciplinary action could be taken. In one further case, a member of staff was ordered to forfeit a financial increment after being found guilty, under the Code of Discipline, of using obscene language to an inmate.

Prison staff discipline and prisoners' complaints in Scotland

123. Arrangements for complaints against prison officers and disciplinary proceedings in Scotland were set out in paragraphs 97-101 of the second report. The new internal system for dealing with prisoners' complaints, introduced in February 1994 is now well established, with the majority of complaints being dealt with at local level, as intended. In 1996-1997, a total number of 6,623 complaints, covering all aspects of prison life, were recorded by the Scottish Prison Service. The independent Scottish Prisons Complaints Commissioner also began to receive complaints from prisoners in January 1995. In 1996 he received 440 applications; of the 336 cases examined during that period, recommendations were made in 37 of those cases: of these, 34 were accepted by the Chief Executive of the Prison Service, and three rejected. A copy of the Commissioner's 1996 report is attached as annex U.

Prison staff discipline and prisoners' complaints in Northern Ireland

124. Most complaints by prisoners are currently dealt with at local level, in accordance with the revised Prison Rules and Standing Orders introduced in 1995, and statistics on such complaints are not held centrally. During the year 1996-1997 Prison Service Headquarters dealt with 3,350 written submissions from prisoners in the form of petitions to the Secretary of State: the majority of these were requests rather than complaints. The Northern Ireland Prison Service has been developing revised procedures for dealing with prisoner complaints, requests and grievances. The Service plans to consult interested parties and organizations on its proposals early in 1998 and publish the new procedures before the end of March 1998.

Immigration Service discipline and complaints

125. The Immigration Service has established complaint procedures. Any complaint about the way in which Immigration Service staff or Contractor's staff carry out their duties is viewed seriously, and is carefully and thoroughly investigated by a senior officer unconnected with the matter. The

Service recognizes that some individuals may be reluctant to make a complaint, but seeks to emphasize that a complaint will not prejudice an individual's case, and that individuals need have no fear of making one.

126. Where appropriate, remedial or disciplinary action may be taken against members of staff, and in some cases financial redress is offered to complainants. Figures for complaints received against the Immigration Service since 1994 are set out in the table below.

Year	Total number of complaints received (includes maladministration, rudeness, delays etc)	Number substantiated
1994	550	155
1995	502	137
1996	436	123

127. Since January 1994 the working of the complaints system has been monitored by the Immigration Complaints Audit Committee, which has access to all papers on complaints and their investigation. Members of the committee may raise matters with members of the IND Board and make public their annual report. A copy of the 1996 report is as annex V.

Article 14

128. Arrangements for compensating victims of crime were set out in paragraphs 107-118 of the initial report and 122-125 of the second report. New statutory arrangements, in the form of the Criminal Injuries Compensation Scheme, were introduced in Great Britain on 1 April 1996. The main difference between the new and old arrangements lies on the basis for assessing levels of compensation, which moves from assessment on the basis of common law damages to a tariff-based system under which compensation is assessed on a scale of payments for injuries of comparable severity.

129. Paragraph 119 of the initial report and paragraph 126 of the second report also described the help available to victims of crime through Victim Support, a voluntary organization operating in England and Wales, and comparable schemes in Scotland and Northern Ireland. The Government continues to provide substantial levels of funding for these organizations, contributing a total of £12.7 million to Victim Support, £1.5 million to Victim Support Scotland, and £448,000 to Victim Support Northern Ireland in 1997-1998. The Government also contributes to the work of other organizations in this field, such as the United Nations Voluntary Fund for Victims of Torture.

Article 15

130. As explained in paragraphs 121-123 of the initial report, under both statutory and common law a confession which may have been obtained by oppression is inadmissible in the United Kingdom as evidence against the person who made that confession.

Article 16

Corporal punishment

131. Paragraphs 130-132 of the second report explained that the use of corporal punishment had been abolished in state-maintained schools, and that the use of "inhuman or degrading" punishment in private schools was also prohibited by law. A teacher who inflicted any type of corporal punishment on a child in a maintained school, or on one who was publicly funded in an independent (private) school, would be guilty of the tort of trespass and liable in damages to the child; he or she might also be subject to disciplinary proceedings. The Government believes that the civil law provides adequate protection, and does not consider that a teacher guilty of this behaviour should be guilty of a criminal offence, except where the punishment went beyond "reasonable chastisement". However, following a report by the European Commission of Human Rights in November 1997 (A. v. UK), the Government has said that it will clarify the law to ensure that the existing common law defences of "lawful correction" or "reasonable chastisement" are not used to excuse the infliction of degrading or harmful punishment on children. A consultation paper will be issued shortly.

Care and protection of children

132. The legislative framework established for the care and protection of children, and other measures to prevent abuse, were set out in paragraphs 133-139 of the second report. The Government continues to work to prevent abuse through a variety of programmes and projects. Particular emphasis is placed upon the training of doctors, nurses, social workers, and other health professionals likely to come into contact with children in child protection, and the recognition and handling of child abuse.

133. Following the conviction of a number of individuals in North Wales for sexual and other crimes against children in their care over the preceding 20 years, the then Government commissioned an independent review of the adequacy of safeguards against the abuse of children living away from home. The report by Mr. William Utting, published on 19 November 1997, identified a list of serious failures within the arrangements for protecting vulnerable children living away from home, including failures in the provision of residential care and secure accommodation for young offenders. The report made 20 principal recommendations designed to improve safeguards in foster and residential care, in schools, and in the penal system.

134. The Government has made clear that it takes this report very seriously and that it is committed to ensuring that the failures identified do not recur in future. A Ministerial task force has been established to prepare a detailed and comprehensive Government response to the Utting report, in

consultation with the public and voluntary agencies concerned, and to take forward work on a full programme of policy and management changes to deliver a safe environment for children living away from home.

135. A separate report by Her Majesty's Chief Inspector of Prisons on the management of young prisoners, also published on 19 November 1997, made a number of recommendations reflecting those in the Utting report. Two other reports published in 1997, one by the Inspectorate of Prisons and one by a non-governmental organization, the Howard League for Penal Reform, had also drawn attention to the particular difficulties faced by young girls in prison.

136. On 27 November 1997, the Government published proposals for a far-reaching programme of reforms to the youth justice system, to be implemented through the Crime and Disorder Bill introduced into Parliament on 2 December 1997. A study of the whole range of secure accommodation for young people is already under way. The Prison Service intends to designate establishments for young male prisoners (i.e. for under-18s only), in which enhanced regimes will focus on meeting their needs and achieving the aim of preventing re-offending. The case for greater separation in the mixing of female prisoners (both adult and young) is also being examined. To this end, a working group has been formed to review age-mixing in the female estate. The Government is also seeking to reflect the principles of the Children Act 1989 in its operation of regimes for Young Offenders, as the Act itself does not apply in prisons.

APPENDIX A

List of documents submitted to the Committee */

Annex

A Human Rights Bill;

B Asylum and Immigration Act 1996;

C Chahal v. UK: judgement of the European Court of Human Rights;

D Special Immigration Appeals Commission Act 1997;

E Geneva Conventions (Amendment) Act 1995;

F Police and Criminal Evidence Act 1984 Codes of Practice (1997);

G Extradition (Torture Order) 1997;

H Primary inspection of the Royal Ulster Constabulary 1996: Report of H.M Inspector of Constabulary;

I Northern Ireland (Emergency Provisions) Bill;

J Report of the Independent Commissioner for the Holding Centres 1996;

K John Murray v. UK: judgement of the European Court of Human Rights;

L Suspects in police custody and the revised PACE Codes of Practice, Home Office Research Findings No. 62, 1997;

M Police complaints and discipline: deaths in custody, Home Office Statistical Bulletin 21/97; and Race and the Criminal Justice System, Home Office, December 1997;

N Comparative figures for suicide in prison: Council of Europe statistics 1994 and 1995;

O Instructions to Immigration Officers on the use of detention;

P Annual Report of the Police Complaints Authority 1996-1997;

Q Report of Her Majesty's Inspector of Constabulary for Scotland 1996-1997;

R Police (Northern Ireland) Bill;

S Report of the Independent Assessor of Military Complaints in Northern Ireland 1996;

T Report of the Prison Complaints Ombudsman (England and Wales) 1996;

U Report of the Scottish Prisons Complaints Commissioner 1996;

V Report of the Immigration Complaints Audit Committee 1996-1997.

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*/ These documents are available for consultation in the files of the United Nations Office of the High Commissioner for Human Rights.

APPENDIX B

Other published documents referred to in the report

European Commission of Human Rights, A. v. UK, Report adopted by the Commission on 18 September 1997, Council of Europe (Application no. 255599/94)

Hayes, Dr. Maurice, Report on police complaints and discipline in Northern Ireland, Stationery Office, 1997

H.M. Chief Inspector of Prisons for England and Wales, Young prisoners: a thematic review, Home Office, 1997

H.M. Chief Inspector of Prisons for England and Wales, Female offenders: a thematic review, Home Office, 1997

Home Affairs Committee, Report on police disciplinary and complaints procedures, Stationery Office, 1997

Home Office, Initial report by the United Kingdom under article 19 of the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, March 1991 (United Nations document CAT/C/9/Add.6)

Home Office, Second report by the United Kingdom under article 19 of the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, February 1995 (United Nations document CAT/C/25/Add.6)

Howard League for Penal Reform, Lost Inside: report of the Howard League inquiry into the use of prison custody for girls aged under 18, Howard League, 1997

Lloyd of Berwick, Lord, Report of the inquiry into legislation against terrorism, Stationery Office, 1996

Pourgourides, C.K., S.P. Sashidharan and P.J. Bracken, A second exile: the mental health implications of detention of asylum seekers in the United Kingdom, Northern Birmingham Mental Health NHS Trust, 1996

Standing Advisory Commission on Human Rights in Northern Ireland, 22nd Annual report to the Secretary of State, Stationery Office, 1997

Utting, Sir William, People Like Us: Report of the review of the safeguards for children living away from home, Stationery Office, 1997

PART TWO: CROWN DEPENDENCIES: GUERNSEY, JERSEY AND THE ISLE OF MAN

GUERNSEY

I. GENERAL INFORMATION

137. The position detailed in the Bailiwick of Guernsey's initial report on the implementation of the Convention remains unchanged.

138. Reference was made in the initial report to the European Convention on Mutual Assistance in Criminal Matters. The Insular Authorities are still considering whether the Convention should be extended to the Bailiwick and also whether legislation paralleling the Criminal Justice (International Cooperation) Act 1990 should be enacted. Similarly Guernsey's 1939 Mental Treatment Law is still under review.

139. The Bailiwick of Guernsey's authorities continue at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

II. CURRENT POSITION AND STATISTICS

140. Current statistics relating to suicides of persons in custody, complaints against police officers, prison officers and mental health staff and details of extraditions and deportations are provided in the appendix to this report.

141. The Bailiwick Authorities have nothing further to add to its initial report.

STATISTICS FOR THE BAILIWICK OF GUERNSEY

	1995	1996	To September 1997
Police			
Suicides in police custody	0	0	0
Complaints against police:			
Substantiated	5	6	1
Unsubstantiated	12	13	8
Informally resolved	0	0	1
Withdrawn	8	7	6
	25	26	16
Prison			
Suicides in prison custody	0	0	0
Staff disciplinary hearings	8	5	1
Complaints against staff	2	2	1

Prison occupancy:			
Maximum	78	78	78
Highest	59	57	53
Lowest	36	34	32
Average	44.9	43.7	41.4
Customs			
Suicides in Customs custody	0	0	0
Extraditions	0	0	0
Deportations	1 a/	2 b/	0
Mental health hospital			
Suicides of persons detained for mental health reasons	1	0	1
Complaints against staff	0	0	0

a/ to Sweden
b/ to Portugal, Morocco

JERSEY

I. INFORMATION OF A GENERAL NATURE

142. This is the second report from the Bailiwick of Jersey under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The initial report under the Convention was submitted by Jersey in 1995 and officials from the United Kingdom Government were examined on that report by the United Nations Committee against Torture at its 234th meeting held at the Palais des Nations, Geneva, on 17 November 1995 (CAT/C/SR.234 and CAT/C/SR.234 Add 1).

143. Part I of the initial report referred to the extension of the Convention to Jersey in 1992 and the enactment of the Torture (Jersey) Law 1990, which enabled the ratification of the Convention on behalf of Jersey and created a new offence of torture in the law of Jersey.

144. Part I of the initial report also summarized the legal position in Jersey regarding torture and referred to the application to Jersey of the European Convention for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Geneva Conventions.

145. Though not specifically referred to in the initial report in late 1996, Jersey decided that Protocols I and II to the European Convention for the Prevention of Torture should be extended to Jersey.

II. INFORMATION RELATING TO THE ARTICLES IN PART I OF THE CONVENTION

146. The following information is supplementary to that provided in the initial report.

Article 9

147. Drafting of legislation similar to the Criminal Justice (International Cooperation) Act 1991 is well advanced and this will enable the ratification for Jersey of the European Convention on Mutual Assistance in Criminal Matters 1991.

Article 11

148. In 1996, the Court of Appeal for Jersey and the Royal Court have held that the breaches of Jersey Police Code and Manual of Guidance, based on Code of Practice "C" and "O" under the Police and Criminal Evidence Act 1984, even though voluntary, would be treated in the same way by the Courts in Jersey as breaches of the Codes were treated by the courts in England and Wales.

149. Work is in progress on the preparation of two new laws having similar effect to the Police and Criminal Evidence Act 1984. The first of those, establishing a new system for dealing with complaints against the police, is already in the drafting process.

150. Since the initial report, the Prevention of Terrorism (Temporary Provisions) Act 1984 (Jersey) Order 1984 has been revoked and replaced by the Prevention of Terrorism (Jersey) Law 1996. The new Law is modelled on the Prevention of Terrorism (Temporary Provisions) Act 1989 and came into force on 1 July 1996 and 1 December 1996.

151. It is proposed to change the procedures under the Law during 1998 to take account of the judgement of the European Court of Justice in Gallagher v. United Kingdom, which dealt with the compatibility of provisions of the 1989 Act with European Community law.

152. In the period since the initial report, there have been two deaths by suicide in H.M. Prison, La Moye. Following those deaths, steps were taken by prison authorities to improve provision for assessment of prisoners potentially at risk of self harm, to provide extra training for prison staff on suicide prevention, to modify some cells at the prison where "at risk" prisoners are kept and instal in some of those cells closed circuit television monitoring. A committee of inquiry was set up into these two deaths and its report has been received. A copy is attached as appendix A.

Article 14

153. The Criminal Justice (Compensation Orders) (Jersey) Law 1994 provides for the Courts to order a person convicted of an offence involving personal injury to pay compensation to the victim. Compensation for victims of violent crime is also available through the Criminal Injuries Compensation Scheme 1991.

Article 16

154. The Criminal Justice (Young Offenders) (Jersey) Law 1994 makes new provision governing the imposition of custodial sentences on offenders under the age of 21 and establishes a youth court in place of the juvenile court for dealing with young offenders.

ISLE OF MAN

I. INFORMATION OF A GENERAL NATURE

155. This report takes the form of an update of the Initial Report of the Isle of Man Government, included in the Second Periodic Report of the United Kingdom and submitted in January 1995.

156. The Isle of Man Government continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

157. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987, Cm. 1634) extends to the Isle of Man. The Committee established under that Convention visited the Isle of Man Prison and four police stations in the Island in September 1997. The Isle of Man Government cooperated fully with the CPT Committee, and will report in line with the procedures laid down in the Convention.

II. INFORMATION RELATING TO THE ARTICLES OF PART I OF THE CONVENTION

Article 11

158. Two suicides of prisoners have occurred since the submission of the initial report:

(i) On 22 December 1995, a 22-year-old male, serving a 3½-year sentence for robbery and criminal damage, died from vagal inhibition, having hanged himself;

(ii) On 9 June 1996, a 44-year-old male, serving two six-month sentences for burglary and theft, died from vagal inhibition, having hanged himself.

159. A committee of inquiry was appointed to consider the circumstances relating to those deaths and reported in February 1997. A summary of the Committee's recommendations, which have been agreed in principle by the Isle of Man Government, is attached. The CPT Committee (referred to in paragraph 157 above) welcomed the decision to implement the recommendation to take out of service the former segregation unit, in which one of the prisoners had died; it is hoped that the new segregation unit will be completed and brought into use during 1998. The Committee expressed the hope that work on implementing most, if not all, of the committee of inquiry's recommendations of a medical nature would progress rapidly.

160. In 1996-1997 the Isle of Man Government agreed that the staffing of the Isle of Man Prison should be increased by 15 posts, or by approximately

25 per cent. All but one of the additional posts have now been filled, and the final post will be filled in early 1998. The inmates of the prison will derive benefit from the higher staffing level.

Article 13

161. Paragraph 31 of the initial report refers to the Visiting Committee, established under the Prison Rules 1984 made under the Prison Act 1965 (an Act of Tynwald). The 1965 act has been repealed and replaced by the Custody Act 1995, which requires a board of visitors to be established for every institution in which persons are detained in custody. The board's functions include the duty to visit the institution frequently, to hear complaints made by prisoners and to report any abuses to the Department of Home Affairs. Pending the making of new rules establishing a board of visitors for the Isle of Man Prison, the existing visiting committee continues to act as such a board.

APPENDIX I

Summary of the recommendations of Dr. V. Foot, health-care adviser to H.M. Prison Service in North of England

(1) All new receptions should be assessed by Health Care Officer/Nurse on the day of arrival and such assessments should be properly recorded to include a formal assessment of suicide risk. The United Kingdom format F2169 is recommended.

(2) The Medical Officer should be fully consulted about the development of the local suicide risk assessment process and further advice should be forthcoming from the United Kingdom Prison Service using research evidence as available. I would be pleased to offer support and advice if this would be helpful.

(3) The Prison Service should consider adopting H.M. Prison Service England and Wales Health Care Standards suitably adapted.

(4) The Medical Officer should be involved in development of a listener suite with Samaritans' support.

(5) Shared accommodation with or without continuous observation (personal or CCTV) should be the normal management of suicidal prisoners until there is psychiatric assessment and consideration of Mental Health Act transfer. Unfurnished accommodation should be used exceptionally and audit should be implemented.

(6) Psychiatric assessment should be regularly available (weekly) and urgently as required with a low threshold for admission for assessment and intervention.

(7) The Health Service should actively include the Prison Service in needs analysis for psychiatric provision.

(8) The Director of Public Health and commissioning agency for the Ballamona Hospital should include provision for prisoners with mental disorder.

(9) A mental health team should be provided on contract to the prison.

(10) Drs. Dowman and Chinn need to develop a joint policy on managing opiate withdrawal.

(11) The Director of Public Health and Dr. Chinn need to provide clear advice to the Medical Officer about drug services on the Island and the role of the clinical nurse specialist in drugs needs clarification - a regular input must be ensured.

(12) Dr. Dowman should be invited to the North West Prisons Health Group and all conferences and meetings for prison doctors.

(13) All health-care staff should ensure the completion of notification of addicts to the Minister of Home Affairs and the Misuse database.

(14) Alternatives to the Segregation Unit be urgently explored for mentally disturbed prisoners - these could include:

- increased transfer under the Mental Health Act;
- Multidisciplinary team input;
- Use of listener suite with Samaritan input;
- Use of other Agencies, e.g. Narcotics Anonymous;
- Possible use of HMP Garth or HMP Liverpool for long-term inpatients.

(15) There should be much closer monitoring of the use of unfurnished accommodation

(16) Provision of a 3-bed health-care centre that is continually manned while occupied. In the long term, a 5-bed unit should be anticipated (based on present population trends).

(17) A pharmacy service should be contracted such that medications (other than those liable to abuse in prisons) should be given in possession having been legally dispensed and properly labelled.

(18) Secondary dispensing by nurses should cease forthwith.

(19) The Venalink system is strongly recommended since this gives security with considerable health care officer time saving. The Governor, security staff and HCOs are welcome to view the operation of this system at HMP Liverpool which could also provide the full service to IOM prison.

(20) Health care and discipline staff should be recruited to such a level that health-care staff can be deployed exclusively to health-care duties other than in emergency.

(21) Given the wide range of duties, all health-care staff recruited should be first level nurse qualified.

(22) There should be professional management of health-care staff which may either be by the appointment of an "F" grade nurse or a first level nurse qualified Health Care Senior Officer

(23) The Medical Officer should contribute actively to the recruitment, professional development and performance appraisal of nursing staff. If he is not to line manage them, his advice should be sought.

(24) Negotiations be commenced to provide a contract for clinical services between Dr. Dowman and the Governor. The contract must also include provisi for cover during Dr. Dowman's absence and a GP practice contract for out of hours and attendance cover is recommended.

(25) Dr. Dowman should have an advisory role to the Governor about health-ca policy and strategy.

(26) There should be some formal professional support which could either be the Director of Public Health or the Health Care Adviser for H.M. Prison Service Agency (or a combination).

PART THREE: DEPENDENT TERRITORIES OVERSEAS

I. INTRODUCTION

162. This part of the present report constitutes the United Kingdom's third periodic report under article 19 of the Convention in respect of its dependent territories overseas to which the Convention applies: that is to say, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena, and the Turks and Caicos Islands. (In the case of Bermuda, to which the Convention was extended later than the other territories, the report is in fact the second periodic report.) As explained below, these territories will in future be styled the United Kingdom's "Overseas Territories", and that designation is accordingly used in the following paragraphs of this part of the present report.

II. GENERAL REVIEW OF POLICY TOWARDS THE OVERSEAS TERRITORIES

163. The Committee will wish to be aware of the outcome of a recent and comprehensive review of the United Kingdom Government's policy towards the Overseas Territories. As a consequence of this review, the United Kingdom Government proposes to modernize its relationship with the territories, offering a stronger and better partnership which will be based on trust and mutual respect and which will reflect the following four clear principles: self-determination; self-government; the United Kingdom's responsibilities to the territories and their responsibilities to the United Kingdom; and the United Kingdom's commitment to help the territories develop economically and to assist them in emergencies.

164. In pursuance of this policy, the United Kingdom Government has identified five key areas for reform:

(a) New Overseas Territories Departments

Both the Foreign and Commonwealth Office and the Department for International Development (the two Ministries of the United Kingdom Government principally concerned) are to have new Departments to deal with matters specifically concerning the Overseas Territories, each such Department being responsible to a Minister specially designated for that purpose. (Ministers have already been so designated.) There will in future be a structured dialogue between the territories and the United Kingdom Government, involving, inter alia, an annual Overseas Territories Council comprising the Chief Ministers or other representatives of the Governments of the territories and the Ministers responsible for the Overseas Territories.

(b) Citizenship

The United Kingdom Government is looking actively and sympathetically at the possibility of granting full British citizenship (which would entail the right to enter and live in the United Kingdom) to the inhabitants of all those Overseas Territories who at present do not have full British citizenship.

(c) Financial regulation

The objectives in this area are to avoid the risk of the Overseas Territories becoming channels for "money-laundering" and to ensure that their financial sectors - which, in the case of many of them, now constitute an important element in their economies - are properly regulated. In pursuance of these objectives, the territories will, where appropriate, be required to implement a "checklist" of measures designed to bring their regulation of financial activities into line with the highest international standards and they will also be required to establish fully independent regulatory authorities.

(d) Human rights

The United Kingdom Government is confident that human rights are generally respected and protected in all the Overseas Territories. Nevertheless, it recognizes that there is still a need for further measures to be taken, in certain respects, to ensure that the laws of the territories conform fully with the relevant obligations of the United Kingdom under various international human rights instruments and, more generally, with the broadly accepted norms in this field. In particular, the United Kingdom Government is concerned that all the territories should adopt - as most of them, indeed, already do - the same position as obtains in the United Kingdom itself in respect of capital punishment and judicial corporal punishment. To this end, the United Kingdom Government has strongly urged - and, if necessary, will continue to urge - the Governments of those territories whose laws may still be open to criticism in this respect to introduce appropriate amending legislation at the earliest suitable opportunity. Failing that, the United Kingdom Government may have to consider the possibility of itself legislating in this matter on behalf of the territories. The current position with reference to judicial corporal punishment, which is of course a topic that is of direct relevance to the Convention against Torture, is reported more fully below in relation to each separate territory in respect of which it has previously not been possible to report to the Committee that the law of that territory no longer made provision for the punishment to be ordered.

(e) Designation

In keeping with the new relationship, it has been decided that the United Kingdom's dependent territories overseas should in future be styled the "Overseas Territories". This usage has now been adopted as a working practice and it is hoped that the legislation to give it legal force will be enacted in the near future.

III. EXTRADITION

165. Both article 3 and article 8 of the Convention are directly concerned (and other articles are indirectly concerned) with the law regulating extradition to and from States parties. Certain technical changes have recently been made, or are currently in preparation, in the relevant law of the Overseas Territories. Since these changes are applicable to all the territories, it is convenient to report on them at this point rather than in relation to each territory separately.

166. First, and as reported in paragraph 33 of Part One of the present report (dealing with the United Kingdom's metropolitan territory), the Extradition (Torture) Order 1997, which was made on 22 July 1997 and came into force on 1 September 1997, has replaced the Extradition (Torture) Order 1991. (The effect and significance of the 1991 Order in relation to the Overseas Territories was explained in the United Kingdom's initial reports in respect of the territories and in the course of the oral examination of those reports.) The 1997 Order now provides the legal basis for treating the offence of torture, attempts to commit such an offence and participation in any such offence as extraditable offences as between the United Kingdom and its Overseas Territories on the one hand and various States parties to the Convention on the other hand. This replacement of the 1991 Order was effected for technical reasons and the substantive law on the matter has not been changed.

167. Second (and again as previously explained), as between any Overseas Territory on the one hand and, on the other hand, any other such territory or the metropolitan territory of the United Kingdom or the Republic of Ireland or a Commonwealth country (whether or not a State party to the Convention), extradition is at present governed by the Fugitive Offenders Act 1967 and various Orders in Council made under it, as temporarily retained in force by the Extradition Act 1989. But the resulting position as regards the offence of torture, etc. is the same in any such case as under the Orders referred to in paragraph 166 above: any such offence is extraditable and the requirements of the Convention, and in particular of article 8, are fully implemented. However, preparations are currently being made to replace the earlier instruments - that is to say, the 1967 Act and the Orders in Council made under it - by a new Order, or new Orders, made under the Extradition Act 1989. Again, there will be no change in the substance of the law, and the new instrument or instruments will allow full effect to continue to be given, in all the cases to which they apply, to the requirements of the Convention. It is hoped that this exercise can be completed in the course of 1998.

ANGUILLA

I. INFORMATION OF A GENERAL NATURE

168. For the most part, the position with respect to the implementation of the Convention in Anguilla remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee. However, there have been a few recent developments that may be thought to be relevant to the implementation of the Convention, and information on these is set out in Part II below by reference to the respective substantive articles of the Convention to which the developments principally relate.

169. The Government of Anguilla continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

II. NEW DEVELOPMENTS

Article 10

170. With reference to this article, and also article 16 of the Convention, the Committee will wish to know that there is presently before the Anguilla House of Assembly a Mental Health Bill which comprehensively addresses the care and treatment of persons suffering from mental disorder. The Bill, which it is hoped will be enacted before the end of 1988, will make it a criminal offence for anybody employed in a hospital treating such persons wilfully to neglect or ill-treat or (except in self-defence) strike any patient or to have carnal connection with any patient.

171. The Bill further provides for the Minister to make regulations for the care, treatment, maintenance, conduct, discipline, custody, transfer, leave, release, discharge and supervision of mental health patients during their detention in hospital or after their discharge from such detention. It also provides for the establishment of a Mental Health Review Board to consider, inter alia, representations in respect of such detention.

Article 11

172. Anguilla has recently completed the construction of a new prison, built on modern principles and with the enhancement of the welfare of prisoners as one of its specific objectives. The opening of this new prison remedies the overcrowding which existed in the previous prison. The new prison provides good facilities for prisoners to train, exercise and take part in sports activities.

173. At the same time as establishing the new prison - and indeed to complement its establishment - the Government of Anguilla promulgated a new and comprehensive set of Regulations ("the Prisons Regulations 1996") under the Prison Ordinance (Chapter 205). These make fresh provision for the custody, welfare, treatment and care of prisoners, for their discipline, for the functions and conduct of prison officers and for the establishment of a Visiting Committee with the responsibility (and the necessary authority) to make regular visits to the prison, to investigate complaints and potential abuses and to report on these and other matters to the Governor. Among the matters which are regulated in detail are the following: religious ministration; illness and death of prisoners; food; accommodation and hygiene; daily exercise; work; education and welfare; and outside contacts and aftercare. The Regulations expressly provide that female prisoners are to be kept entirely separate from male prisoners and also - and this is a matter that the Committee was particularly interested in during the oral examination of the initial report - that unconvicted prisoners are, as far as reasonably possible, to be kept apart from convicted prisoners. A copy of the Prisons Regulations 1996 is being transmitted to the Committee's Secretariat together with this report.

Article 16

174. With reference to the question of judicial corporal punishment, it can be reported that a Bill has been introduced in the Anguilla House of Assembly to

abolish the power to order such punishment and also corporal punishment for prison offences. (The Prisons Regulations 1996 - see paragraph 173 above - in fact make no provision for such punishment.) It is hoped that the House of Assembly will be able to consider the Bill on second reading when the House next sits, and that it will be enacted as early as possible in the second half of 1998.

175. The Education Ordinance 1993 - and there are no present plans to amend it in this respect - still provides for the administering of corporal punishment in schools but only "where no other punishment is considered suitable or effective, and only by the Principal, Deputy Principal or any teacher appointed by the Principal for that purpose, in a manner which is in conformity with the guidelines issued in writing by the Chief Education Officer". The Ordinance expressly provides that "in the enforcement of discipline in public schools and assisted private schools degrading or injurious punishment shall not be administered".

BERMUDA

176. For the most part, the position with respect to the implementation of the Convention in Bermuda remains as stated in the initial report in respect of the territory, as supplemented in the course of (or pursuant to) oral examination by the Committee.

177. However, the Committee's attention is drawn to the "Review of the Criminal Justice System in Bermuda" which was carried out in 1992, at the request of the Bermuda Government, by a team of six persons (three, including a Supreme Court Judge, from Bermuda itself and three from the United Kingdom) under the chairmanship of Judge Stephen Tumim, then the Chief Inspector of Prisons in England and Wales. A copy of their report ("the Tumim Report") is being transmitted to the Committee's Secretariat together with the present report. A number of the recommendations made in the Tumim Report are directly or indirectly relevant to various articles of the Convention (principally arts. 11, 12, 13 and 14) or to related matters in which the Committee has shown a particular interest in connection with earlier reports under the Convention. Some of these recommendations have already been implemented by the Bermuda Government, while others are still under examination or action on them is still in progress. The recommendations in question, and the current status of action on them, are as follows:

(a) "We recommend that the Police make more use of video and tape recordings, when detaining and interviewing people, so that they can be made more accountable, and that legislation along the lines of the Police and Criminal Evidence Act in the United Kingdom should be introduced." The Bermuda Government has accepted this recommendation. The necessary legislation has now been passed and the Police Service is making arrangements for its implementation.

(b) "We recommend that an independently based procedure should be established for the investigation of complaints against the police." A Bill to implement this recommendation ("the Police Complaints Authority Bill") has been drafted by the Attorney-General's Chambers and approved by Ministers and will be introduced in the legislature as soon as possible.

(c) "We recommend that the operation of the Legal Aid system be reviewed to ensure that it adequately meets the requirements of justice in supporting those facing criminal charges." A list of proposals for amendments to the Legal Aid Act 1950 have been prepared by a Supreme Court Judge and sent both to Judge Tumim and his team and to the Bermuda Bar Council for their comments. These comments are now being considered by the Ministry of Health and Social Services which expects to be in a position to introduce legislation in the course of 1999.

(d) "We recommend that no person under the age of 16 years should be held by the Prison Service."

(e) "We recommend that young offenders, if located at the new prison facility, should have separate accommodation and facilities from adults." In response to these two, related, recommendations, the Bermuda Government has established a secure unit at the Youth Development Centre which is operated by the Department of Child and Family Services and is not part of the prison system. This is a temporary measure until a secure unit for young offenders can be permanently established. Though the law does permit the holding of young offenders in prison and though there are no separate facilities to accommodate young offenders in the new prison facility (Westgate), every effort will be made, if it ever becomes necessary to place young persons there, to keep them separate from adults.

(f) "We recommend that training programmes be designed and implemented for prison staff, and that such training should bring staff into professional contact with other agencies within the criminal justice system." Action on this recommendation has already been taken. Arrangements have been made with the Canadian authorities to permit the exchange of prison staff, and a training agreement has been arranged with the Ohio Correction Academy in the United States of America.

178. With respect to judicial corporal punishment (article 16 of the Convention), the position remains as described in the initial report in respect of the territory, i.e. the provisions authorizing the imposition of such punishment remain, unrepealed, on the statute book, and there are no proposals currently before the Bermuda legislature to effect a repeal. However, it also remains the case that the courts of Bermuda, as a matter of judicial policy, do not now have recourse to these provisions and no sentence of corporal punishment has been imposed in Bermuda for many years.

179. The Government of Bermuda continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

BRITISH VIRGIN ISLANDS

180. For the most part, the position with respect to the implementation of the Convention in the British Virgin Islands remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee.

181. However, one new development that should be reported concerns the implementation of article 11 of the Convention (specifically, the arrangements

for the custody and treatment of prisoners). The British Virgin Islands Government is committed to the policy of providing prison facilities that are in accordance with the most modern standards. In pursuance of this policy, a new prison was opened on 21 April 1997. This provides adequate accommodation for 120 prisoners and is fitted with modern conveniences and equipment. In parallel with this modernization of the physical facilities, prison officers are currently being trained in up-to-date management techniques and the decision has been taken to replace the existing Prison Rules, which date back to 1956, by new Prison Rules which will reflect today's standards, including the relevant provisions of the Convention. It is hoped that these new Rules will come into force in the course of 1998.

182. With reference to article 16 of the Convention and the issue of judicial corporal punishment, the current position is that provision for this remains on the statute book of the British Virgin Islands, and there have in fact been some cases in recent years - the latest was in 1996 - where the Magistrate imposed a sentence of corporal punishment on juvenile offenders. Though the question of its abolition is under active consideration, it must be said that majority opinion in the territory appears at present to be unfavourable to such a move.

183. Two further developments can be reported which, though not directly related to particular provisions of the Convention, may be regarded as relevant to the legal framework through which respect for it is assured. First, a committee has been set up to examine the possibility of introducing a scheme of legal aid in the British Virgin Islands. The committee's terms of reference require it to study and report on the various options for such a scheme. It will be remembered that this was a topic in which the Committee against Torture expressed interest during its oral examination of the initial report. Second, the ordinary criminal laws of the British Virgin Islands have now been codified and embodied in a single statute, the Criminal Code 1997. This will make the law more easily accessible to all concerned - the courts, law enforcement officers, legal practitioners and, not least, persons who are themselves charged with or accused of criminal offences and other interested members of the public.

184. The Government of the British Virgin Islands continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

CAYMAN ISLANDS

I. INFORMATION OF A GENERAL NATURE

185. For the most part, the position with respect to the implementation of the Convention in the Cayman Islands remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee. However, there have been a few recent developments that may be thought to be relevant to the implementation of the Convention, and there are also certain respects in which the material previously submitted needs to be brought up to date or can now be

amplified. Information on these matters is accordingly set out in Part II below by reference to the respective substantive articles of the Convention to which it principally relates.

186. The Government of the Cayman Islands continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

II. NEW DEVELOPMENTS AND SUPPLEMENTARY INFORMATION

Article 3

187. The second periodic report described (in paragraph 309 of CAT/C/25/Add.6) the criteria and procedures applied in the Cayman Islands (as endorsed by representatives of the United Nations High Commissioner for Refugees) for the treatment of refugees. Paragraph 311 of the same report stated that - as was indeed the case when the report was prepared - no one had ever been repatriated to Cuba from the Cayman Islands.

188. However, an unprecedented problem arose in this particular respect in 1994-1995. In the past three decades the Cayman Islands have had to deal with a stream of Cuban migrants trying to reach the United States of America, but the maximum number at any one time had previously been 166. In August and September 1994, however, some 1,184 Cubans arrived in the Cayman Islands on makeshift vessels. A special refugee compound ("Tent City") had to be provided for their accommodation, with the Agricultural Pavilion and Government-owned apartments in George Town being used for the overspill. At the invitation of the Cayman Islands Government, representatives of UNHCR came to the islands to advise on the problem. After screening, 43 of the Cubans were determined to have refugee status. These were allowed to remain as permanent residents in the Cayman Islands. Of the others, some 900 were eventually transferred at their own request to United States camps in Guantanamo Bay and Panama and accommodated there at the expense of the Cayman Islands Government. Most of the remainder set out by sea for mainland America, after making their vessels seaworthy and being properly provisioned, or were voluntarily repatriated to Cuba. Only 13 of them refused to leave the Cayman Islands. These had eventually to be accommodated at Northward Prison and then compulsorily deported to Cuba, but this was done only after assurances had been obtained from the Cuban Government that they would not be harmed or persecuted. The British Embassy in Cuba monitors the position to ensure that these assurances are honoured. While the Cubans were in the Cayman Islands, they received free accommodation and were given health care and support by specially trained staff of the Social Services Department of the Cayman Islands Government. A special school (La Escuela de las Balseritas - the Little Rafters School) was set up for the 161 children involved. The total cost to the Cayman Islands in dealing with the problem was US$ 7 million.

Article 10

189. With reference to this article, it is to be noted that Order 55 of the Police Service Standing Orders now reads as follows: "All supervisors and officers entrusted with the care and custody of prisoners of any category must clearly understand that there is a total prohibition against the use of

torture, whether physical or mental, or any other cruel, inhuman or degrading treatment or punishment of prisoners whilst they are in police custody. This prohibition extends to the use of any form of ill-treatment during the interrogation of persons who have been subjected to any form of arrest, detention or imprisonment. The Cayman Islands are bound by the United Nations Convention against such practices adopted in December 1984."

Article 11

190. Since the submission of the second periodic report, a review of prison operations and the Prison Rules has been carried out for the Cayman Islands Government by Judge Sir Stephen Tumim (formerly the Chief Inspector of Prisons for England and Wales), and his report has now been published. Among the recommended reforms which have already been implemented are the following:

(a) A manpower review has been undertaken and has resulted in the appointment of additional prison staff;

(b) Inmate categorization has been introduced;

(c) A Committee of Visitors has been established, and prison facilities are visited by these visitors on a regular monthly basis;

(d) Improvements have been made in the educational programmes for prisoners, and greater participation in these programmes has been achieved;

(e) There has also been an increase in vocational training programmes for prisoners, with between 50 and 60 per cent of prisoners now receiving such training;

(f) A more thorough programme of screening for illegal drugs and weapons has been introduced and, at the same time, there has been an increase in the provision of drug counselling, using the Cayman Islands Counselling Centre;

(g) Improvements have been made to the premises in which prisoners are accommodated, including the installation of ceiling insulation to reduce heat at night and of better soundproofing in the areas in which prisoners are held at the courthouse;

(h) Prison officers now receive proper training in restraint and control procedures. Prisoners are no longer handcuffed during visits, and it is the trained staff of the prison service, rather than the police, that now transport prisoners to the courts;

(i) As part of the programme for training prison staff, the Assistant Director of Prisons has been enabled to spend three months on a "work placement" with the Prison Service in the United Kingdom; and

(j) There is now proper planning, with contigency rehearsals, for the handling of emergencies by prison staff.

The Prison Rules are themselves being revised. It is hoped that the revised Rules will be brought into force in the near future. On 26 August 1997, the prison population stood at 229, of whom 22 were women.

Articles 12 and 13

191. As was explained in the second periodic report (see paragraph 316 of CAT/C/25/Add.6), the Royal Cayman Islands Police Force has established a separate Complaints and Discipline Branch, staffed by an experienced inspector and sergeant, and each Police Force annual report now contains a section dealing specifically with the work of that Branch and containing statistics and other information with special reference to cases involving alleged mistreatment of persons in police custody. Copies of the relevant sections of the annual reports for the years 1994, 1995, 1996 and 1997 are being transmitted to the Committee's Secretariat together with the present report.

Article 16

192. As previously reported, the law of the Cayman Islands theoretically still permits a convicted prisoner to be sentenced, by a court, to corporal punishment for certain offences against prison discipline but the power has not been exercised in practice in recent years and is effectively in abeyance. The Executive Council of the territory has recently agreed that the provisions in question should now be repealed as part of a wider revision of the Prison Law. It is hoped that the necessary legislation for this purpose can be put before the Legislative Assembly in the course of 1998.

FALKLAND ISLANDS

193. For the most part, the position with respect to the implementation of the Convention in the Falkland Islands remains as stated in the previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee.

194. However, one development that may be thought relevant to article 11 of the Convention (the treatment of prisoners) is the enactment of the Prison (Amendment) Ordinance 1996. This Ordinance, which came into force on 1 January 1996, makes a number of amendments to the principal Ordinance in this field, the Prison Ordinance 1966. In particular, it repeals that part of the 1966 Ordinance under which prisoners could be compelled to undertake work inside or outside the prison and replaces it by new provision under which prisoners may be required to carry out only such work as is reasonably necessary in the interests of hygiene or for the maintenance of the prison. Other amending provisions deal with the testing of prisoners for drugs and with searches for "unauthorized property", such as alcohol, tobacco and controlled drugs.

195. The Government of the Falkland Islands continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

GIBRALTAR

196. The position with respect to the implementation of the Convention in Gibraltar remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee. No new measures have been introduced, nor have any other new developments taken place, that can be considered relevant to the Convention. The Government of Gibraltar continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

MONTSERRAT

197. Since the submission and examination of the second periodic report under the Convention in respect of Montserrat, the life of the population of the territory has been dramatically affected - indeed catastrophically disrupted - by the eruption of the Soufriere Hills volcano, which is part of a volcanic range in the southern part of the island. The eruptions began on 13 July 1995 and the continuation of volcanic activity over the period since then has necessitated the evacuation of an ever-increasing area. The southern two thirds of the island, which were the most densely populated part and which included Montserrat's capital, the town of Plymouth, have now been declared an exclusion zone. Plymouth has effectively been destroyed and, with it, the territory's major law enforcement institutions such as the police headquarters and the prison.

198. Montserrat's economy has, of course, also been severely damaged by the continuing volcanic activity and by its physical consequences as just outlined. Two thirds of the territory's population have been forced to move either to other Caribbean islands or to countries outside the region such as the United States of America, Canada or the United Kingdom. The business sector of the economy is gravely handicapped and damaged and the tourist industry has effectively been eliminated. Montserrat is now heavily dependent on the United Kingdom for budgetary aid and is likely to remain so for several years.

199. Despite this situation, the Government and people of Montserrat remain firmly committed to the principles of the Convention and the Government of the territory will continue at all times to seek to ensure that the requirements of the Convention are as scrupulously observed as the circumstances permit. In fact, the account previously given to the Committee of the measures in force, and practices followed, to achieve that end remains substantially applicable even in present circumstances. There have been no relevant changes in the law since the previous reports and, certainly, there have been no alleged incidents of torture or of cruel, inhuman or degrading treatment or punishment. As previously reported, judicial corporal punishment was abolished in Montserrat as far back as 1991.

200. Nevertheless, the physical and economic difficulties under which Montserrat is now labouring have, in one field that is relevant to the Convention, necessitated the adoption of arrangements that it is acknowledged are unsatisfactory but that cannot immediately be ameliorated. As explained

above, with the destruction of Plymouth Montserrat also suffered the destruction of its prison. Since then, largely ad hoc arrangements have had to be made for the accommodation of prisoners. The current situation in this respect is as follows:

(a) There is one building on the island which has been designated as a prison. This is a former dwelling house, which is capable of accommodating up to eight prisoners. The segregation of male and female prisoners is difficult to arrange and the facilities in that respect are unsatisfactory. Fortunately, there have been no female prisoners until recently, but there is currently one female remand prisoner. The segregation of remand prisoners from convicted prisoners of the same sex is impossible;

(b) Until recently, arrangements were in force under which long-term prisoners were sent from Montserrat to the Turks and Caicos Islands to serve their sentences there, but the prison on Grand Turk now cannot take any more prisoners from Montserrat. Efforts are being made to set up similar arrangements with the Government of the British Virgin Islands. In the interim, long-term or dangerous prisoners may have to be sent to serve their sentences in the United Kingdom; and

(c) The construction of a new remand centre/prison, which is currently scheduled for completion by November 1998, has been authorized by the United Kingdom Government. It will have a total of eight cells, two of which will be physically separated from the others. This should make it easier to achieve segregation where that is required.

PITCAIRN

201. The position with respect to the implementation of the Convention in Pitcairn remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee. No new measures have been introduced, nor have any other new developments taken place, that can be considered relevant to the Convention. The Island Council of Pitcairn continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

ST. HELENA

202. The position with respect to the implementation of the Convention in St. Helena (including its Dependencies) remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee. No new measures have been introduced, nor have any other new developments taken place, that can be considered relevant to the Convention. The Government of St. Helena continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.

TURKS AND CAICOS ISLANDS

203. For the most part, the position with respect to the implementation of the Convention in the Turks and Caicos Islands remains as stated in previous reports in respect of the territory, as these have been supplemented in the course of (or pursuant to) oral examination by the Committee.

204. However, it can now be reported in relation to article 16 of the Convention that, in February 1998, the Law Revision Committee of the territory recommended the removal from the statute book of the existing provisions authorizing corporal punishment in certain cases. They did so on the grounds that they considered that such punishment was no longer acceptable in a modern society; that in practice it had not been carried out for many years; and that it was, in their opinion, at variance with international norms and various conventions on human rights. The Executive Council of the territory endorsed the Committee's recommendation and, on 25 March 1998, the Legislative Council passed the necessary legislation to remove all references to corporal punishment from the three laws (the Offences Against the Person Ordinance, the Young Offenders Punishment Ordinance and the Malicious Injuries to Property Ordinance) that had previously provided for it. This legislation came into force, as the Law Revision Miscellaneous Amendment Ordinance No. 4 1998, on 15 May 1998.

205. The Government of the Turks and Caicos Islands continues at all times to seek to ensure that the requirements of the Convention are scrupulously observed.